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Ontario. Legislative Assembly.  
Standing Committee on Regula-  
tions and Private Bills.

Debates  
35th Parl., 2nd Sess.

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1992









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## Legislative Assembly of Ontario

Second session, 35th Parliament

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 22 April 1992

# Journal des débats (Hansard)

Le mercredi 22 avril 1992

## Standing committee on regulations and private bills

Organization

## Comité permanent des règlements et des projets de loi privés

Organisation



Chair: Drummond White  
Clerk: Todd Decker

Président : Drummond White  
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario  
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario  
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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 22 April 1992

The committee met at 1007 in committee room 1.

### ELECTION OF CHAIR

**Clerk of the Committee (Mr Todd Decker):** Mr Hansen nominates Mr White. Are there any further nominations? If not, I declare nominations closed and Mr White acclaimed as Chair of the committee.

### ELECTION OF VICE-CHAIR

**The Chair (Mr Drummond White):** I now call for nominations for the position of Vice-Chair.

**Mr George Dadamo (Windsor-Sandwich):** I would like to nominate Ellen MacKinnon.

**The Chair:** Ellen MacKinnon is nominated. Further nominations? Hearing none, Ms MacKinnon is duly elected by acclamation.

The clerk informs me that in two weeks' time we should have a number of bills before us. I am wondering if we could have some foreknowledge of those bills by a week or so from now.

**Clerk of the Committee:** By next Wednesday or Thursday I'll send out copies of the bills and all of the compendium and background information that goes with them.

**Mrs Ellen MacKinnon (Lambton):** Did you say in two weeks?

**Clerk of the Committee:** Two weeks from today.

**The Chair:** Is there any further business?

**Mr Derek Fletcher (Guelph):** Motion to adjourn.  
The committee adjourned at 1009.



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**Vice-Chair / Vice-Président(e):** Vacant

Dadamo, George (Windsor-Sandwich ND)

Eddy, Ron (Brant-Haldimand L)

Farnan, Mike (Cambridge ND)

Fletcher, Derek (Guelph ND)

Hansen, Ron (Lincoln ND)

Jordan, W. Leo (Lanark-Renfrew PC)

Mills, Gordon (Durham East/-Est ND)

Ruprecht, Tony (Parkdale L)

Sola, John (Mississauga East/-Est L)

Sutherland, Kimble (Oxford ND)

Wilson, Jim (Simcoe West/-Ouest PC)

**Substitutions / Membres remplaçants:**

Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND) for Mr Mills

**Clerk / Greffier:** Decker, Todd





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regulations and private bills

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 6 May 1992

The committee met at 1008 in committee room 1.

### ELECTION OF VICE-CHAIR

**The Chair (Mr Drummond White):** I call this meeting of the standing committee on regulations and private bills to order. The first bit of business for our committee is a small problem which arises from our last meeting. At that time, Ms Ellen MacKinnon was elected Vice-Chair of the committee. However, while she is now, through a motion of the House, a member of this committee, she was not at that time a member of the committee according to a motion of the House. In consequence, I would like to ask the committee if it concurs with the election of Ms MacKinnon as Vice-Chair.

**Mr Gordon Mills (Durham East):** Agreed.

**The Chair:** Agreed. Thank you.

### FAITHWAY BAPTIST COLLEGE OF CANADA ACT, 1992

Consideration of Bill Pr1, An Act respecting FaithWay Baptist College of Canada.

**The Chair:** We have before us our first sponsor, Mr Jim Wiseman, the member for Durham West, presenting Bill Pr1, An Act respecting the FaithWay Baptist College of Canada. Mr Wiseman, would you introduce your friend?

**Mr Jim Wiseman (Durham West):** This is the Reverend Baker from the FaithWay Baptist Church. Basically, this bill is to confirm the status of his college. I will leave the questions up to Mr Baker to answer from the committee. It's my pleasure to introduce him at this time. I'm afraid I have to go back upstairs to the standing committee on government agencies, so I will be leaving now if there are no questions to me on this bill.

**The Chair:** Do you have any particular comments on the bill prior to your absenting yourself?

**Mr Wiseman:** No, I think Reverend Baker will be able to answer all questions. It was my pleasure to introduce the bill to the House.

**Mr Gregory Baker:** We have gone through the process taking us to this part today, going through the ministries, regulations, and have gained approval from the Minister of Colleges and Universities. We feel it would be expedient for us to have the privilege of granting religious degrees to young people who are preparing for religious ministry, primarily in our religious denomination. That's why I'm here today: to answer any questions. I trust that you members will see fit to make a motion that we be allowed to go ahead with this.

**The Chair:** I think that's fairly straightforward. Are there any other interested parties to this bill present? Any objectors? Are there any questions from committee members in regard to the bill?

**Mr Mills:** Having read the recommendations from the Minister of Colleges and Universities, there's certainly nothing there that would prohibit this, so I would move that this be granted.

**The Chair:** We are then on clause-by-clause of this particular bill. I would presume we can move quickly.

Sections 1 to 13, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, and thank you, Reverend Baker.

**Mr Baker:** Thank you.

**The Chair:** Is Mr Ruprecht here?

**Mr Mills:** I saw him earlier this morning. I don't know where he is now. Perhaps we could go on to the golf course.

**The Chair:** Seeing as Ms Carter is present, could we jump ahead in our agenda and come back to Mr Ruprecht's bill, presuming he will be back later?

### PETERBOROUGH CLUB ACT, 1992

Consideration of Bill Pr26, An Act to revive The Peterborough Club.

**Ms Jenny Carter (Peterborough):** I'd like to introduce Mr Daly, who is a lawyer from Peterborough. This bill is to revive the Peterborough Club, which I guess did not take timely action in the past that would have enabled it to renew its charter, so now this is the only way this can be done.

I'm also on the government agencies committee, so I would beg leave to be excused. I'm Jenny Carter, MPP for Peterborough. I am the sponsor of this private member's bill.

**Mr James Daly:** I'm acting for the Peterborough Club with respect to this application. I'm here to answer any questions anyone may have in regard to this application.

As you can see from the compendium, it was basically a matter of inadvertence that the charter of the club was dissolved because of the fact that there was a failure to make out the annual returns. It was simply a matter of inadvertence, nothing more than that.

I understand the application has been circulated and there had been no objections from any side at all. If anyone has any questions, I'd be pleased to answer them.

**The Chair:** Before that, are there any other parties who are interested in this bill here? No? Any questions to the applicant?

**Mr Ron Hansen (Lincoln):** I believe this is just a little bit of housekeeping that has been left undone for a number of years.

**The Chair:** That's well said.

**Mr Hansen:** So I don't believe we have any objections on this side.



**Mr John Sola (Mississauga East):** I wonder if Peter Adams, the former member, is in support of this thing.

**Mr Daly:** I think I've seen Mr Adams at the club, and I know he enjoys being there.

**Mr Sola:** That's good enough for me. I wouldn't be able to look Peter Adams in the eye if I voted against this.

**The Chair:** Okay, then we can move on to the bill itself. Shall sections 1 through 3 carry?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**Mr Hansen:** As the last bill, Pr1, passed so quickly, I would like to move that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr1, An Act respecting FaithWay Baptist College of Canada.

**The Chair:** I think that's an excellent motion, but before we entertain that, I wonder if I could thank the applicant for taking such time to come down and meet with us.

**Mr Daly:** It was a matter of personal interest, and I have enjoyed it.

**Mr Hansen:** Sorry, Mr Chair. I thought your business was finished at that point.

**The Chair:** Mr Hansen moves the waiver of the fees for the FaithWay Baptist Church. Does that meet with the committee's agreement?

Fee-waiving motion agreed to.

#### 372595 ONTARIO LIMITED ACT, 1992

Consideration of Bill Pr11, An Act to revive 372595 Ontario Limited.

**The Chair:** Mr Ruprecht is still not present? Mr Sola, would you like to sponsor this bill in Mr Ruprecht's absence?

**Mr Sola:** In the absence of my colleague Mr Ruprecht, I will sponsor on his behalf Bill Pr11, An Act to revive 372595 Ontario Limited. Because I am not familiar with the bill, I will turn the mike over to Mr Louis B. Lawrence to explain the situation.

**Mr Louis B. Lawrence:** The corporation was in fault of filing corporate tax returns and wasn't aware of that fact because the head office moved a number of times.

**The Chair:** So a fairly straightforward issue. Are there any other people present who have any concerns with Bill Pr11? Any questions?

**Mr Mills:** Pretty straightforward, Mr Chair; no questions as far as I'm concerned or the ministry. Let's go ahead and read the bill.

**The Chair:** Shall sections 1 through 3 carry?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you, Mr Lawrence and Mr Sola.

**Mr Sola:** I can't believe I was so successful.

**The Chair:** It was just your eloquence, Mr Sola.

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#### BOROUGH OF EAST YORK ACT, 1992

**The Chair:** The members of the committee will notice that copied on the back of today's agenda is a letter from the solicitor for the applicant of Bill Pr23 requesting that Bill Pr23 be withdrawn. Is it the pleasure of the committee that I report that the bill not be reported, having been withdrawn by the applicant?

**Mr Hansen:** I don't have a problem there, but what is Pr23? What was it in respect of?

**Clerk of the Committee (Mr Todd Decker):** It's one of six bills that are before the committee from Metropolitan Toronto area municipalities regarding the dates during the year on which tax levies are remitted to Metropolitan Toronto. The current system is for them to be remitted in advance twice annually, and the six municipalities were hoping to be able to change that so they could remit monthly. The borough of East York has decided it has no interest in pursuing that application.

**The Chair:** So does that meet with the committee's concurrence? Agreement?

**Mr Hansen:** Agreed.

**The Chair:** Thank you.

#### DRAFT REPORT, 1989 REGULATIONS

**The Chair:** We now have a report on the 1989 regulations, Mr Avrum Fenson.

**Mr Avrum Fenson:** This draft report on the 1989 regulations was given to the committee I guess last summer and I'm here to repeat my offer to answer any questions the committee may have, so that you can then proceed to suggest amendments or proceed with tabling it if that's your desire.

I once discussed with the clerk the possibility of distributing, just for your information and for my assistance as well, copies of the correspondence I engaged in with the different ministries in the writing of this draft report. It would give you an idea of what the issues are, and your response would be of assistance to me. So if the committee's interested, Todd can give you the file of correspondence that preceded the writing of this report.

As I explained last time I spoke to the committee, the work of reviewing regulations had at one time been done by outside counsel hired by the committee, and there was a backlog which will probably be brought up to date this summer. The next draft report I'll be giving the committee will cover 1990 and 1991 regulations. Then shortly after the end of this year I'll be giving you a report on the 1992 regulations and we should be keeping fairly closely with the calendar hereafter.

So if either today or at the next meeting the committee wants to put questions to me about the draft report, I'll be glad to answer. I could, once again if the committee wishes, just review for you what the process is through which I review the regulations.

**Mr Jim Wilson:** Mr Chairman, through you to Mr Fenson, I think we've been over how this is done as a committee very thoroughly in the past, and I appreciate



that. I note that in the report you mention that all the ministries responded to your inquiries but that there was one outstanding, regarding a violation of the guidelines. In your opinion, is there anything very serious in this report in terms of violations of guidelines that you should flag for us?

**Mr Fenson:** No, I don't think there are any gross violations. Some of them are technical violations of the rule against retroactive application which would be occasioned by a late filing; a regulation which states that it comes into effect on July 1 and which doesn't get to the registrar of regulation until July 3, for example.

Others were honest differences of opinion about the meaning of a word. In the past there has been the occasional ambiguity as to who the actual maker of the regulation was, because all regulations, no matter whether they're made by the minister or if they're made by cabinet, go through the cabinet regulations committee, and the documents filed with the registrar tend to be signed by the same group of people: the minister of the ministry involved, the chair of cabinet and so on. Sometimes the description of the maker is either incorrectly stated in the Ontario Gazette or actually is incorrectly stated in the documents.

**Mr Jim Wilson:** You raise a good question. Is it your responsibility or your department's responsibility to ensure that the notice in the Gazette is followed according to statute?

**Mr Fenson:** It's the responsibility of this committee to make sure that it has been properly published in the Gazette. The actual process of publication in the Gazette is handled by the office of legislative counsel, one of whom is the registrar of regulations. After the cabinet regulations committee approves the documents, the ministry then files the documents with the registrar of regulations, who is then required under the Regulations Act to cause the regulation to be published in the Gazette within 30 days. If it fails to be published in the time, it doesn't have effect against people who don't have notice of it.

**Mr Sola:** I notice from the figures that there seems to be an increase in the verbosity of the regulations. For instance, in 1980, 1,100 regulations took about 2,100 pages to print and in 1989 the number of regulations fell to 727 but the number of pages it took to print was almost 3,200. Is that because the ministries are not sticking to the second guideline about precision and unambiguous language or is it because of the complexity of the law?

**Mr Fenson:** It's really neither, because among documents which are regulations are, for example, the OHIP

fee schedule and the various Ministry of Health drug schedules; these run to hundreds and hundreds of pages, so if the Ministry of Health decides to revise the OHIP fee schedule in one particular year, that alone will swell the figures. It generally reflects individual monstrous-sized regulations which turn up in the particular year.

The other large user of space in regulations are orders under the Planning Act, and sometimes if there are very large land descriptions and use descriptions they occupy long space. The building code is a regulation, the code under the Fire Marshals Act is a regulation, and if these things are redone they each alone will account for hundreds and hundreds of pages. I think that accounts for much of the variation from year to year.

**Mr Sola:** Do you detect an improvement in sticking to the guidelines or do you detect sort of an increase in the number of violations?

**Mr Fenson:** I haven't noticed a change. Generally the adherence to the guidelines is pretty commendable. The percentage is small, and I haven't noticed a radical change in the few years I have been reviewing the regulations for the committee.

**The Chair:** Any further questions? We have two options in front of us. We could either approve the report at this point in time or give ourselves a week or two prior to the next meeting in order to review it again, so that when we approve it we do so with sober second and third thoughts. Any thoughts on those alternatives, gentlemen and Ms MacKinnon?

**Mr Sola:** I'd suggest that either prior to the next sitting or after we've dealt with the next set of private members' bills that we would vote on accepting the report.

**The Chair:** Does that meet with concurrence?

**Mr Mills:** Mr Chair, as a new member here, that would be very apropos as far as I'm concerned, to give me the time to read this and digest it.

**The Chair:** So we will schedule a second or third discussion of this report for the end of our next meeting, which will be in two weeks, at which time there will be some five bills in front of us, one of which we have seen before.

Thank you very much, Mr Fenson. We are adjourned until two weeks from today.

The committee adjourned at 1030.







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**\*Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)

**\*Eddy, Ron** (Brant-Haldimand L)

**Farnan, Mike** (Cambridge ND)

**\*Hansen, Ron** (Lincoln ND)

**Jordan, W. Leo** (Lanark-Renfrew PC)

**\*Mills, Gordon** (Durham East/-Est ND)

**Ruprecht, Tony** (Parkdale L)

**\*Sola, John** (Mississauga East/-Est L)

**Sutherland, Kimble** (Oxford ND)

**\*Wilson, Jim** (Simcoe West/-Ouest PC)

**\*In attendance / présents**

**Clerk / Greffier:** Decker, Todd

**Staff / Personnel:**

Klein, Susan A., legislative counsel

Fenson, Avrum, research officer, Legislative Research Service



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## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 27 May 1992

The committee met at 1010 in committee room 1.

**The Chair (Mr Drummond White):** I'd like to call this meeting to order. This morning we are hearing Bill Pr4, which we hope will be held second, Bill Pr9, Bill Pr25 and Bill Pr31. Bill Pr9, Ms Witmer, are you ready?

**Mrs Elizabeth Witmer (Waterloo North):** Yes, but Mr Jackson is first.

**The Chair:** My apologies, Mr Jackson. I was informed there was a delay. Are you ready to go? Okay, we'll reverse our order and put Bill Pr4 first.

### SCHOOL SISTERS OF NOTRE DAME OF ONTARIO ACT, 1992.

Consideration of Bill Pr4, An Act respecting the School Sisters of Notre Dame of Ontario.

**Mr Cameron Jackson (Burlington South):** Thank you, Mr Chairman, and members of the committee. I'd like to express our appreciation for the opportunity to present a private bill this morning. I'd like to introduce Mr Terence Whelan, QC, solicitor for the School Sisters of Notre Dame, and Sister Superior Vivian Zoller.

Members, this is a rather important bill to the School Sisters of Notre Dame, although it is predominantly a housekeeping bill. We would ask that the solicitor present a brief overview and we'll be pleased to answer any questions, but I can assure you that this application has been before the committee for some time and we're hopeful that it can be resolved today.

**Mr Terence A. Whelan:** The School Sisters of Notre Dame were incorporated by a special act of this Legislature in 1905. The name at that time was the Directors of the School Sisters of Notre Dame. Subsequently the name was changed, by supplementary letters patent, to the School Sisters of Notre Dame of Ontario.

The governance of the sisters over the years has changed. At that time they reported to a superior in Wisconsin. Now they control their own affairs. The practice has been for three sisters to make determinations of the affairs of the corporation—not five, as the original act states—and the original act provided a prohibition on the value of property the sisters could own in any one year. Perhaps \$25,000 was deemed to be appropriate in 1905, but it's proposed that this prohibition be eliminated. There are other statutes of the Legislature that restrict what they may or may not do in regard to land not required for the purposes of the corporation. So Sister Vivian, whose title now is provincial leader, is here with two other members of her council, and the act that's proposed and is before this committee is, as Mr Jackson stated, really some internal housekeeping.

As I walked in this room, the public trustee's director of charities provided me with a letter. It's called "Deficiency Notice for Charities," dated May 26, 1992, which I

believe was yesterday. The sisters haven't received it. They did receive a communication from the public trustee's office in May 1991 to which they responded on June 24, 1991. The letter from the public trustee's office was dated May 30, 1991. They provided in that letter what they thought was all the information requested by the public trustee's office.

Mr Moore advises me this morning that two of the directors of the sisters failed to sign the financial statements, which are audited, and this deficiency notice is a request for annual financial statements signed by all trustees or two or more directors on behalf of the board of directors for the fiscal years 1989 and 1988. Mr Moore has indicated he's asking this committee to defer a recommendation that the bill be passed until that requirement is satisfied. With respect to Mr Moore and his office, I view it as a very minor manner.

The sisters have been a registered Canadian charity since federal legislation permitted that. They've been active in the diocese of Hamilton since 1905. We expect they are going to be around for a long time yet and they're prepared to undertake to this committee that they will respond to this deficiency notice immediately, but to present it to me this morning with no advance notice to them or to me, I suggest, is not entirely fair.

**The Chair:** I understand Mr Moore is present. Are there other interested parties to this bill? Could we then hear from Mr Moore as well, please?

**Mr Eric Moore:** Good morning, committee members. Thank you for this opportunity. I should point out, in case there's any misconception, that charities law is not a matter of income tax law, it is within provincial jurisdiction.

We became aware of the school sisters' existence when this bill was presented to the committee. Although the provincial legislation that governs charities, the Charities Accounting Act, requires a charity to provide information to the public trustee, that had never been done. Now, I should point out that that act goes back to 1914; there had never been any complaints with it. Upon being aware that this bill was coming before the committee, we notified the sisters of Notre Dame that information was required to be provided. We did receive a response, but the response was deficient. I should point out too that I received notice that this matter was coming before the committee only on Monday evening and that's why the deficiency notice has been dated as of yesterday. I chose to present it to Mr Whelan today simply because I didn't think it would come to his attention promptly by mail or even by fax.

I'm willing to withdraw the public trustees' objections to the bill on Mr Whelan's undertaking to the committee. If the information that's required will be provided pursuant to that undertaking, the public trustee wouldn't object to this bill.

**The Chair:** I understand from your earlier comments that you would undertake to comply.

**Mr Moore:** I make that undertaking as a solicitor and as a member of the Law Society of Upper Canada. I have been the sisters' solicitor for many years. I so do.

**The Chair:** Thank you very much, Mr Whelan and Mr Moore. Questions from the committee members? None from the government side?

**Mr Tony Ruprecht (Parkdale):** From our perspective, it seems to be resolved and therefore we see no objection, especially with Mr Jackson there, who I know will do his best to resolve the whole thing. I have every confidence in him to work it out with the parties.

**The Chair:** It seems that all parties share your faith in Mr Jackson and Mr Whelan and the sisters in resolving this minor difficulty. Are the committee members ready for a vote?

Sections 1 to 4, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, Sister Vivian and Mr Whelan.

**Mr Jackson:** If I may, Sister Vivian has been the superior for 12 years and she will be retiring in June. If the committee would allow her simply to express appreciation for one moment, I would appreciate that.

**Sister Vivian Zoller:** I would like to thank you very much for your consideration of this. As Mr Jackson said, this is probably my final act to the community before the new administration takes over. I'd also like to thank Mr Moore for waiving his objection this morning and allowing us to move with this. Thank you very much for your time and attention.

**The Chair:** I'd like to express my appreciation that we were able to resolve this difficulty so quickly. Often these things get tangled up and I'm glad to see we were able to do that in about 30 seconds.

1020

**Mr Kimble Sutherland (Oxford):** I'd like to move that the fees and actual costs of printing to all stages and in the annual statutes be remitted on Bill Pr4, An Act respecting the School Sisters of Notre Dame of Ontario.

**The Chair:** Mr Sutherland moves the waiver of fees. All in favour?

Fee-waiving motion agreed to.

**Mr Ruprecht:** Is he correct in his wording? I thought he said "be remitted." He meant waiving, probably, but I guess that's minor wording. You'd better check that.

**The Chair:** The clerk points out to me that the correct motion is "remit," and certainly I used the word "waiver" as well, so those fees are waived.

**Mr Jackson:** Would you like to call the vote on that?

**The Chair:** I did call the vote and I believe it passed, despite Mr Ruprecht's concerns.

#### CAMBRIDGE DISTRICT ASSOCIATION FOR CHRISTIAN EDUCATION ACT, 1992

Consideration of Bill Pr9, An Act to revive Cambridge District Association for Christian Education.

**Mrs Witmer:** I'm pleased to be here this morning to bring forward this Act to Revive the Cambridge District Association for Christian Education, and I'd like to introduce to you the principal, Mr Elgersma, and the solicitor, Mr Ingram. I'll call on the solicitor to make the appropriate comments.

**Mr George Ingram:** Mr Chairman and members of the committee, I should point out for the record that the application is in the name of Andrew Elgersma. Mr Elgersma was not able to attend today, but we have the principal, Mr John Vanasselt. He has been the principal ever since the inception of the school in 1976.

The facts around this situation are fairly simple. In the latter 1970s you may recall that there were annual requirements of filing information returns, and apparently from 1976 to 1979 either these weren't returned by the appropriate board member or whatever of the school—all the boards members, of course, are parents of the students—and apparently the notice of default in 1979 was sent to the school. At that time they had only temporary facilities in a church. They did not have a permanent structure of their own, and they were meeting in the basement of the church. Subsequently, of course, they have now a substantial separate building just outside the town of Breslau, near Kitchener.

But at that time in 1979 apparently, from what I can gather, nobody had received the notice of default and as a result they just assumed that everything was all right. The issue didn't come to the attention of the board until just a couple of years ago when somebody apparently made some investigation of the name, Cambridge District Association for Christian Education, and it was operated under the unincorporated name of Woodland Christian High School. Woodland is the common name of the school at the moment, but the operating body is the incorporated name, of course, Cambridge District.

Apparently at that time it came to our attention that there was a notice of default. No reply had been given by the members of the board, and consequently the government automatically revoked the letters patent. We're here today to revive the corporation back to the time of the dissolution so that there will be a natural continuum as a result.

**The Chair:** Thank you, sir. Any comments, Mr Vanasselt?

**Mr John Vanasselt:** No.

**The Chair:** Are there any objectors or interested parties present?

**Mr Moore:** Again, I'm appearing on behalf of the public trustee. The public trustee had requested information when this bill first came forward and advised the charity that there are ongoing reporting requirements. My office has been in communication with Mr Ingram, but in reviewing the file, it appears that they have not continued reporting. All that has been provided was the information immediately required, and the ongoing reports have failed



to be filed. Perhaps this too could be resolved on the basis of an undertaking if that would be acceptable to the Chair and the committee. I believe the bill has been before the committee.

**Mr Ingram:** Mr Chairman, I will so undertake to give that and to comply with the requirements of the public trustee.

**The Chair:** We have that undertaking. Mr Sutherland?

**Mr Sutherland:** More for curiosity's sake, for my understanding of the process, what are the actual reports that have not been forwarded?

**Mr Moore:** Financial statements for the charity are in arrears at this point, so we're unable to get a handle on the current status of the charity's operations.

**Mr Sutherland:** That's an annual filing process, is it?

**Mr Moore:** That's an annual filing required under the Charities Accounting Act.

**The Chair:** Further questions?

**Mr Ruprecht:** Mrs Witmer is looking at this to try to work something out and the Cambridge District Association for Christian Education has her support. I see no reason to have any objection whatsoever, and I congratulate her. Everything can work out fine.

**The Chair:** Are the committee members ready to vote?

Sections 1 to 4, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**Mr Ingram:** I was wondering if you would also extend to the committee the same waiver of the prescribed fees indicated.

**The Chair:** I believe there is a motion forthcoming to that effect.

**Mr Ingram:** I see. Thank you.

**Mr Sutherland:** I move that the fees and cost of printing at all stages and in the annual statutes be remitted on Bill Pr9.

Fee-waiving motion agreed to.

1030

#### TOWN OF CALEDON ACT, 1992

Consideration of Bill Pr31, An Act respecting the Town of Caledon.

**The Chair:** Mr Tilson, could you introduce your colleagues and the bill.

**Mr David Tilson (Dufferin-Peel):** I've been asked by members of council of the town of Caledon to assist them in presenting this bill which has to do with the regulation and prohibition of fill in wetlands, which is a problem the town of Caledon has been experiencing. I would like to introduce the gentlemen who will be speaking in support of this bill. David Ostler is the town solicitor for the town of Caledon, and Glenn Blakely is the bylaw enforcement officer. I think I can safely say that all members of the town of Caledon have expressed a concern with this issue,

which the solicitor will relate to the committee, so I introduce to you David Ostler.

**Mr David Ostler:** Good morning. Before we get into the bill itself, I hope you wouldn't mind if I introduce one of my daughters, Julie, who came along to see part of the legislative process at work.

The town of Caledon is one of three area municipalities in the region of Peel. We've placed a map on the wall of the town of Caledon and I believe the clerk has distributed a small map to you. In fact, in terms of area Caledon constitutes about half the region. Although the town only has a population of about 35,000 people, it has an area of approximately 270 square miles. It might be noted that this is a larger geographic area than the entire municipality of Metropolitan Toronto. The majority of the population is concentrated in 21 settlement areas ranging in size from Bolton, with a population of slightly over 10,000, to a number of communities with less than 100 people.

The southern half of the municipality lies within the Chinguacousy plain, which provides a fertile base for agriculture. The northern part of Caledon consists of more scenic lands, including a number of provincially significant wetland areas and environmentally significant areas as well as two major geological formations, namely, a portion of the Niagara Escarpment, which you will see on your map in front of you, and a portion of the Oak Ridges moraine. The town is traversed from north to south by two major rivers, namely, the Credit on the west side and the Humber on the east side.

Even on the basis of this brief overview of Caledon's natural resources, I'm sure you can appreciate the environmental damage that can be done by the indiscriminate dumping of fill material. Notwithstanding that, during the last five years we have been experiencing an increasing number of situations where fill is being dumped on private property, usually with the permission or acquiescence of the owner but sometimes without. Aside from the obvious deleterious effects on the natural environment, these situations can and have led to interference with and obstruction of natural storm water drainage patterns as well as serious erosion and siltation problems.

In addition to these environmental impacts, there has been a substantial expression of concern from residents of Caledon about the unsightly mess these situations create. This is particularly disturbing to home owners who have been forced to watch helplessly while the elevation of the adjacent property has been significantly raised by the placement of fill material. As Mr Blakely can attest, this has resulted in a number of complaints being filed with the municipality.

Unfortunately there is little, if anything, the town can do to respond to these complaints. The Municipal Act does allow municipalities to prohibit dumping on public roads. Caledon has had a bylaw under this provision of the Municipal Act for a number of years, but of course this is of no assistance when it comes to private property.

There is relief available where privately owned lands are involved adjacent to the Credit or Humber rivers. The Credit Valley Conservation Authority and the Metropolitan Toronto and Region Conservation Authority both have fill



regulations they are able to enforce within the fill lines running along these two rivers, but of course the regulated areas under the jurisdiction of the two conservation authorities represent a small fraction of the lands within the town.

There is also regulatory power that can be exercised by the Niagara Escarpment Commission within the Niagara Escarpment development control area. Any significant alteration to the grades of any property within that area requires a Niagara Escarpment development permit, but again, that area represents less than a quarter of the total land area within the municipality.

Outside the areas where the conservation authorities or the Niagara Escarpment Commission can exercise their respective regulations, there are no statutory means available to prohibit the indiscriminate dumping of fill on privately owned lands.

I might mention that in some instances we have encountered, we have attempted to involve the Ministry of the Environment or the Ministry of Natural Resources. Unfortunately, while both these ministries have been sympathetic to the situation, neither has been able to offer any effective assistance. As I understand it, the Ministry of the Environment's jurisdiction under the Environmental Protection Act is limited to cases where a contaminant is involved and the Ministry of Natural Resources is limited to situations such as where fish or fish habitat are threatened.

The circumstances I have described have led the town to seek the legislation you have before you for consideration. The legislation will enable the town council to pass a bylaw to prohibit the dumping of fill in those areas of the municipality that are not currently regulated or, alternatively, to regulate dumping through a permit system. Under the legislation, the town will have the power to enforce the bylaw through either an order directed to the offending party or through prosecution.

Caledon is by no means the first municipality to seek this type of legislation. As I understand it, North York, Scarborough, Richmond Hill and Brampton have all obtained private legislation. I understand that the town of Oakville is presently in the process of doing so. Given the number of municipalities that have followed this route, I further understand that consideration has been given to public legislation that would be applicable throughout the province.

I just wanted to mention that in addition to the problem of dumping or placement of fill on private properties, we are currently experiencing a related problem: We have found more recently that a number of land owners in the town of Caledon are starting to remove materials from their lands, again causing problems in terms of drainage, environmental damage and that sort of thing. The most recent thing that seems to be popular is the removal of peat, and we're having quite a problem with that, but we're looking at ways of resolving that issue as well.

We're here to answer your questions, Mr Chairman, if there are any. Mr Blakely can cite for you a number of examples, if necessary, of the kinds of situations that we're concerned about. Thank you again for the opportunity.

**The Chair:** Thank you, Mr Ostler. Are there any interested parties and/or objectors? Hearing from none, the parliamentary assistant.

**Mr Gordon Mills (Durham East):** Thank you, Mr Ostler, for coming here this morning, and the bylaw officer, Glenn Blakely. I think everybody around this table understands the problem you're having because we have it in our own communities as well.

Municipal Affairs is working in conjunction with other ministries to bring about some legislation that will address this issue province-wide. That is about a year away from happening, probably, but in the meantime we commend you for this bylaw. It will not, in our opinion, be in conflict with any legislation that we may introduce at a later date. With that, we have no objections and it has the blessing of the Ministry of Municipal Affairs.

**The Chair:** Any questions from the committee members? Mr Sutherland.

**Mr Sutherland:** Not really a question; I wanted to make a comment and compliment Mr Ostler for bringing his daughter along, particularly to see one of the more productive aspects of the Legislature. Most people, to educate their children, bring them along for question period, and I don't really think that's the most productive time of the day we spend as legislators. You should be complimented, and we only wish we had more students coming in to see the other aspects of how the House operates rather than just question period.

**The Chair:** Indeed, if we were usually able to pass four bills in the space of less than an hour. Mr Sola.

**Mr John Sola (Mississauga East):** I'd just like to ask if this is based on any precedent legislation. Is there a similar bill in existence at present?

**Mr Ostler:** Yes, Mr Chairman, if I may. Private bills have been enacted with respect to North York, Scarborough, Richmond Hill and Brampton. I have a copy of Hansard from the occasion when Richmond Hill was before this committee in December 1990, as a matter of fact. I believe Mr Sutherland was chairing at that time.

**Mr Sola:** In other words, this is not setting a precedent.

**Mr Ostler:** No, the legislation we're seeking is very similar to the legislation that's applicable in those municipalities.

1040

**Mr Ron Hansen (Lincoln):** Very shortly the municipality of Lincoln will also be coming forward with the same bill. We have a problem in Lincoln, in development areas, that large mountains of soil from developers are deposited on lands and dandelions grow or the soil blows over subdivisions, so it's a very important piece of legislation for municipalities. Not only that, asphalt debris sometimes gets dumped on private property and filled over, which causes contamination at a later date. I think it's a very important bill. Mr Mills has said it'll take another year; I was hoping it'd be a lot sooner.

**Mr Mills:** Don't quote me about the year.

**Mr Hansen:** Not the year; I said it'll take a year. So as a member of the government, I fully agree with the bill.



**The Chair:** I think that might be Queen's Park time.

**Mr Ron Eddy (Brant-Haldimand):** I agree that most municipalities in Ontario have experienced and are experiencing the same problem, so I'm very pleased that Mr Mills has said that the Ministry of Municipal Affairs is working on it, because it does need generic legislation for all municipalities. I hope that can come on quite soon. Maybe high gear is appropriate on that one. It is really important.

My one question is, have you discussed this with the conservation authorities involved? I believe you've got to have jurisdiction in those areas that the conservation authorities now have, instead of them. Has there been discussion? They're agreeable to that, are they?

**Mr Ostler:** Yes. We have discussed the proposed legislation with both conservation authorities. Actually, there are four conservation authorities that have jurisdiction within the town of Caledon, but two main ones: the Credit Valley and the Metropolitan Toronto and Region Conservation Authority. We've discussed the legislation with them, as well as with the Niagara Escarpment Commission. Their regulations will continue to be in place and to have effect. The bylaw the town of Caledon would enact under this legislation will not be effective within the areas that are currently regulated by both the conservation authorities and the Niagara Escarpment Commission.

**The Chair:** Any further questions? Is the committee ready for a vote?

Sections 1 to 7, inclusive, agreed to.

Bill ordered to be reported.

**The Chair:** Thank you, gentlemen.

#### CITY OF VAUGHAN ACT, 1992

Consideration of Bill Pr25, An Act respecting the City of Vaughan.

**The Chair:** Mr Sorbara is presenting item 3 on the agenda, Bill Pr25, An Act respecting the City of Vaughan. He is accompanied by Ms Wilson, the city's solicitor.

**Mr Gregory S. Sorbara (York Centre):** I want to begin by introducing Heather Wilson, who is solicitor for the city of Vaughan. I just point out to you, although you probably all know this, that the city of Vaughan is Ontario's newest city, formerly the town of Vaughan, formerly the township of Vaughan, for people Mr Eddy's age; as well, the fastest-growing municipality in Canada, according to the census data from 1991, along with the town of Richmond Hill, and among the best-represented in the provincial Legislature—except for all the other 885 municipalities.

**Mr Sutherland:** They're all moving there because you represent—

**Mr Sorbara:** That's why they're moving out, I say to my friend Kimble.

**The Chair:** Mr Sorbara, I hear from your own caucus that there may be some slow-up in this bill.

**Mr Sorbara:** Bill Pr25 is sort of a good-news/bad-news bill. The good news is that it will prevent the demolition, the taking down, the bringing down of heritage

buildings. The bad news is that should it pass, it won't bring down the government, which is regrettable.

I'm going to leave Ms Wilson to deal with the particulars of the bill, which are pretty straightforward. There are some errors in the notes on the bill that she will point out to you. By way of introduction, this heritage preservation bill is similar to or the same as other bills recently enacted by municipalities such as the city of Toronto, the town of Markham and other municipalities dealing with the problems of the loss of heritage buildings in the face of rapid development. Without any further ado and without a motion of non-confidence, although I wouldn't mind moving one, I'll ask Ms Wilson to go through the details of the bill.

**Ms Heather Wilson:** Good morning, Mr Chairman, members of the committee. Thank you for the opportunity to address you this morning. Unfortunately, I don't have any children; I would have brought them.

Briefly, in the explanatory notes, I believe there's a transcription error in the third portion under "Subsections 4 and 5." It talks about a fine being "levied by council." That should be "levied by a court." Council does not have the authority to levy fines, nor do we wish that authority.

Basically, the bill is the same as the legislation passed for Toronto, London and Markham. Presently, the Ontario Heritage Act provides that even if council refuses an application for demolition of a designated building, an owner can demolish 180 days after that decision even though there may be no plans for future development of the site. We're looking for the authority that has been given previously to other municipalities.

Until about 10 years ago, Vaughan was basically a rural municipality with a few small populated pockets. In the past 10 years the municipality has experienced a very rapid growth and the pressure for development is still very strong. For the past few years the municipality has undergone a very long-range planning process for the northern part of the municipality, which still remains relatively rural. I'm sure once the economy takes an upswing, the pressure to develop will be very rapid.

As the municipality was very small for such a long time, our heritage resources are very limited. We don't have the large number of buildings a larger municipality may have to designate and maintain for our heritage, and we'd certainly like to be able to preserve those as best we can. By providing the link, in this legislation, between the demolition of a designated building and a building permit for any new building to be erected on the site, that provides a window of opportunity for council to be able to explore some options for what to do besides having the structure demolished.

I point out that it deals with designated buildings and buildings within a heritage district, not buildings which are merely in our inventory, which we would like. It's buildings already designated.

There are a number of options council has that, as I say, the time frame in the bill would allow it to look at. The property may sell. There are grants available to an owner for relocation and restoration. The municipality can provide loans to assist in a purchase if a new purchaser wishes to purchase the building and maintain the property.



The building may be moved to a location where it may be preserved. We have done this in the past. We've provided loans to move four designated buildings in the municipality so far. There's also the option of the city purchasing the heritage buildings or having them transferred to the municipality as part of a parkland dedication in a new subdivision. There are many different options the provisions of this bill would allow the city to look at to preserve the few heritage resources we have in Vaughan.

Basically, that's why the city is looking for this authority. The provisions of the bill, as I say, are identical to the city of Toronto bill and the bill the town of Markham passed in 1991. That's all I have, if there are any questions.

**The Chair:** Thank you, Ms Wilson. Are there interested parties or objectors present? I should make a note that while Ms Wilson was correct in there being a problem with the explanatory notes, the explanatory notes do not form part of the legislation. Therefore, that's not a problem in terms of passage of the bill.

1050

**Mr Mills:** From the perspective of Municipal Affairs we have no objections to this bill, but for the benefit of the committee and for an explanation I have with me this morning Jim Yanchula, who is the policy assistant to the heritage policy branch for the Minister of Culture and Communications, and Sari Teitelbaum, who is a lawyer with the Ministry of Culture and Communications. In deference to this bill and for the enlightenment of committee members I would like to ask them, with your consent, to give us a few words about heritage buildings, if that's agreeable.

**Mr Jim Yanchula:** The proposed legislation is consistent with what the ministry is doing long-term. Other communities, as you've heard, have passed similar legislation as a means of prolonging the amount of time available to effect some kind of preservation or conservation of heritage properties or heritage resources, whether they be buildings or other structures, designated under the Ontario Heritage Act. Sometimes there's a misconception that it means buildings that are considered important to the community but are not designated. This only covers those that are legally designated.

I say this is consistent with what we're doing because there's a new heritage act being drawn up, perhaps as early as next April, if things go as anticipated. The new legislation would be stronger than the current heritage act and therefore hopefully obviate the need for these private heritage-oriented pieces of legislation for municipalities. As I say, it should be ready in April.

If you have any specific questions about heritage resources, feel free to ask.

**The Chair:** Ms Teitelbaum?

**Ms Sari Teitelbaum:** I don't have anything in particular to add except that the ministry neither opposes nor supports the bill. That's the position the ministry has taken with regard to all the private legislation that's been passed in this regard. It's certainly consistent with the position the ministry holds with regard to heritage conservation in the

province. There's a recognition that the present heritage legislation is deficient in that there is no permanent demolition control in the legislation. Obviously the city of Toronto, which was the leading municipality with this kind of bill, felt the need for something stronger than existed in the heritage act. The ministry is presently, as Jim has said, in the midst of a continuing consultation process and drafting stronger heritage legislation to protect heritage buildings, and this is certainly consistent with the mandate of the ministry and the ministry's interest in the protection of heritage properties.

**The Chair:** I'm sure Mr Yanchula meant private bills, not privately oriented.

**Mr Ruprecht:** I've seen the city of Toronto heritage bill, and this only varies in a very minor way from it. The city solicitor of Vaughan has done the right thing by enlisting the support of Mr Sorbara. It is on those grounds that I certainly support this bill, and I would urge all members to do the same.

**Mr Hansen:** One thing that's happened in our municipalities that are small ones, is that there's been a mistake made and all of a sudden the building came down and they said, "Gee, we forgot to get a permit." I think the conviction of up to \$1 million will jog anybody's memory that they shouldn't knock the building down until they get the proper permit, so I think there won't be any mistakes made in the town of Vaughan. I'm glad to hear about the heritage legislation coming in, which will protect the small municipalities like Pelham and Lincoln and Grimsby so we're not having to come forward with the expense of a private bill.

**Mr Leo Jordan (Lanark-Renfrew):** To the ministry, I was interested in the point that after 180 days following the refusal of a permit to demolish, the applicant may proceed to demolish. I'm wondering about my own riding. Can a community that doesn't have this extra protection extend that 180-day period permanently?

**Ms Teitelbaum:** No. Once the 180 days pass, the property owner is free to demolish the building, pursuant to section 34 of the Ontario Heritage Act.

**Mr Jordan:** It cannot go back to municipal council again?

**Ms Teitelbaum:** No. Under the Ontario Heritage Act, the owner of a designated heritage property is required to obtain the permission of council before the owner demolishes the building. If the municipal council refuses to grant the demolition permit, the owner is required to wait the time period. Once it has elapsed, the owner is free to do whatever the owner wishes with the building: demolish it, if that's what the owner decides. The demolition control is gone after the elapsing of the time.

**Mr Jordan:** Am I right, then, that in small towns like Smiths Falls and Perth where we feel we have a building protected under the Ontario Heritage Act, it is in fact not?

**Ms Teitelbaum:** There is no such thing as permanent demolition control under the present Ontario Heritage Act. That's correct.



**The Chair:** Thank you, Ms Teitelbaum. Any further questions? Are committee members ready for a vote?

Sections 1 to 10, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** As you note from your agenda, the discussion of the regulations that Mr Fenson was to be leading us in has been postponed due to Mr Fenson's lack of availability. We have some four bills before us. What I propose to do would be to meet in two weeks' time, which

would be June 10, to discuss the regulations as were previously circulated and also to debate those four private bills. Any further business?

**Mr Sola:** I'd just like to make a closing comment. It seems like we've had a very effective opposition day in this committee today. I'd like to thank the government for its cooperation, because all the bills were actually being sponsored by opposition members.

**The Chair:** Thank you. We are adjourned.

The committee adjourned at 1058.







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- \*Fletcher, Derek (Guelph ND) for Mr Farnon

- \*In attendance / présents

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## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 10 June 1992

# Journal des débats (Hansard)

Mercredi 10 juin 1992

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets de loi  
privés

Chair: Drummond White  
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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 10 June 1992

The committee met at 1003 in committee room 1.

### CITY OF OTTAWA ACT, 1992

Consideration of Bill Pr18, An Act respecting the City of Ottawa.

**The Chair (Mr Drummond White):** I'd like to call this meeting of the standing committee on regulations and private bills to order. On your agenda you will see that we have a fairly busy morning as there are a couple of bills that require some discussion. In the absence of the people who are listed first on the agenda, we will proceed with those who have arrived on time, which in this case is number 7 on the agenda, Bill Pr18, Mr Bob Chiarelli. Mr Chiarelli, would you introduce your colleagues? As well, if you could, when you do speak, please identify yourself for the purposes of Hansard.

**Mr Robert Chiarelli (Ottawa West):** I'm very pleased to sponsor Bill Pr18. With me today to answer any questions the committee might have are Mr Bellomo and Mr Batson from the solicitor's office of the city of Ottawa.

**Mr Gerald Bellomo:** We have two items on the agenda this morning. This is the less controversial. I won't address the committee at any length, except to respond to questions relating to this. The legislation simply authorizes the city of Ottawa to require landlords to provide what we call basic or vital services and allows the municipalities to step in and provide those services and add the costs of the services to the tax roll if the landlord does not pay the hydro bills or the hot water bills. I'll leave it at that unless there are questions from the committee.

**The Chair:** Are there any interested parties present? Mr Parliamentary Assistant.

**Mr Gordon Mills (Durham East):** We are looking at some sort of legislation in the Ministry of Municipal Affairs down the road, but at the moment we have nothing to deal with on this issue. Our ministry has no difficulties with this bill.

**Mr Tony Ruprecht (Parkdale):** I see Mr Chiarelli is here. Obviously, as I've said before, whenever he lends himself to a certain cause I don't think we have any problems here on this side.

**The Chair:** Any further questions or statements of confidence in Mr Chiarelli?

**Interjection:** On this bill?

**The Chair:** Or at least on this bill. Are we ready for a vote then?

Sections 1 to 5, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, gentlemen.

**Mr Bellomo:** Thank you. We'll see you shortly again on our other legislation.

**The Chair:** Indeed.

Ms Caplan, are you ready? That's item 3 on the agenda. We'll then move back to item 2. I believe I see Mr Wilson here as well, although he showed up a little later. Ms Caplan, could you introduce yourself and your friend.

### CINQUEMANI HOLDINGS LIMITED ACT, 1992

**Mrs Elinor Caplan (Orlino):** I'm here to sponsor Bill Pr33. I'd like to introduce the solicitor, Mr Albert Foreman, who would be pleased to answer any of the detailed questions for the committee.

**Mr Albert Foreman:** This is an act to revive a corporation whose articles were cancelled due to lack of filing of returns. I represent the shareholder of the company, a Mrs Cinquemani, who relied upon the services of a professional with respect to the matter, and for whatever reason the returns weren't filed. As a result, the articles were cancelled, and it wasn't discovered that they had been cancelled until more than five years later, which brings us to this stage. If it had been less than five years, it would of course just have been a matter of filing articles of revival. That's basically the story.

**The Chair:** I believe there is an interested party, a Mary Ellis. Is she present?

**Clerk of the Committee (Mr Todd Decker):** She's coming.

**The Chair:** I'm sorry. It is most unfortunate. I assumed she would be here at this point. The clerk informed me that this person was interested in the bill. I don't know the nature of her concern.

**Mr Foreman:** Mr Chairman, she has called our office on at least one occasion. We were trying to establish what the nature of her concern was and were unable to elicit any information from her other than her saying that she was interested in the procedure without giving us any reason why she had filed an objection as an interested party. There just didn't seem to be any reason why she would have objected, but what can I tell you?

**The Chair:** Nor do any of us. But it does put us in a quandary, knowing that this person was intent on appearing. The clerk informs me she should be here at 10:15. I'm wondering if there's any way we can accommodate this.

**Mr Ruprecht:** We probably should, Mr Chairman. I was going to ask you whether in fact she did show an interest in coming here, other than obviously talking about the procedure of it. But if she has, and if it's okay with Mrs Caplan, we ask that this item be stood down.

**The Chair:** My apologies, Ms Caplan.

**Mrs Caplan:** We'd be pleased to wait till 10:15.

**The Chair:** I am sure we can take your introduction of the bill to this point and simply stay proceedings until that time when Ms Ellis appears. I suggest that we bring it back up as soon as possible. But if she has stated she'd be here by 10:15, we can wait at least until that time or perhaps a little bit later, as political time goes.

1010

#### RIDEAU TRAIL ASSOCIATION ACT, 1992

Consideration of Bill Pr94, An Act to revive Rideau Trail Association.

**The Chair:** Item 2 on our agenda, Bill Pr94, an Act to revive the Rideau Trail Association, Mr Wilson. Would you introduce your friend?

**Mr Gary Wilson (Kingston and The Islands):** I am here with the president of the Rideau Trail Association, which is requesting reviving the incorporation of the Rideau Trail Association through the bill. We're looking for support of Bill Pr94. I will ask if there are any questions and the president, Betty McIver, is here to answer anything the committee might want to ask about.

**The Chair:** Ms McIver, do you have any comments?

**Ms Elizabeth McIver:** Just to add that the association is an active association with about 1,000 memberships and the failure to provide annual returns was the reason why we lost our reincorporation status. We have advertised and there are no negative responses. Any comments we get about the hiking club from the private land owners between Kingston and Ottawa is quite positive in relationship to them having us cross their property.

**The Chair:** Mr Sutherland and then Mr Ruprecht.

**Mr Kimble Sutherland (Oxford):** I was just going to say I believe this organization was before this committee in December and there were concerns there. By the letter we have with us, those concerns have been dealt with, so I think we should go forward on this one.

**Mr Ruprecht:** Mr Sutherland indicated that this association has appeared before us already. Seeing that Mr Wilson has examined this in great detail in a non-partisan way, I think we would be ready to vote on this item.

**The Chair:** We are then ready for a vote.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**Mr Gary Wilson:** Could I ask, since this is a non-profit organization, would the support for this bill extend to deferring the legislative costs of this bill?

**The Chair:** That sounds like an excellent request if we had that—Mr Sutherland?

**Mr Sutherland:** So moved.

**The Chair:** All in favour? That looks unanimous.

Fee-waiving motion agreed to.

**The Chair:** Moving right along, I was just informed that Ms Ellis was present. Is she?

**Mr Foreman:** I have no idea. I have no idea what she looks like.

#### TRI-DELTA OF TORONTO ACT, 1992

Consideration of Bill Pr42, An Act to revive Tri-Delta of Toronto.

**The Chair:** Could we then move back on our agenda to item 1, Ms Akande? Could you introduce your friend, and perhaps you have some comments about the bill?

**Ms Zanana L. Akande (St Andrew-St Patrick):** This is Maureen Monaghan. She is the solicitor for Tri-Delta. I do support this private bill. It's to revive Tri-Delta of Toronto. I solicit the support of the committee and I'm introducing Maureen Monaghan to speak to it and explain it to you.

**Ms Maureen Monaghan:** Tri-Delta of Toronto is a cultural organization. It was dissolved in 1987 for failure to file forms under the Corporations Information Act. The members of Tri-Delta weren't aware that it was dissolved until greater than five years past the date of dissolution. It was actually dissolved due to inadvertence. The notices went to the wrong address due to interpretation of somebody's handwriting.

**The Chair:** Are there any other interested parties present in regard to this bill? Are there any questions?

**Mr Ruprecht:** Other than to say that if Ms Akande lends her support to this bill, we have no questions.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

#### CINQUEMANI HOLDINGS LIMITED ACT, 1992

Consideration of Bill Pr 33, An Act to revive Cinquemani Holdings Limited.

**The Chair:** Ms Caplan, Mr Foreman, if we could resume our discussion of this bill? The clerk informs me that Ms Mary Ellis did appear, and that while she had some concern or interest or whatever, she has withdrawn that and is happy to see the bill proceed.

Where we left off was at the point of asking if there are any questions of Mr Foreman or Ms Caplan in regard to this bill. Hearing none—

**Mr Ruprecht:** It seems all clear. I see Mrs Caplan smiling and that gives me a signal to say it's all okay.

**The Chair:** Fine, we are then ready for a vote. Shall sections 1 through 3 carry?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** We have now dealt with items 1 through 3 on the agenda.

#### PEMBROKE AND AREA AIRPORT COMMISSION ACT, 1992

Consideration of Bill Pr24, An Act respecting the Pembroke and Area Airport Commission.

**The Chair:** Mr Conway is introducing Bill Pr24. Could you introduce your friend?

**Mr Sean G. Conway (Renfrew North):** I'd like to introduce Mr Delbert O'Brien, solicitor for the Pembroke



and Area Airport Commission, and Ms Diane Mau, who is the airport manager.

**Mr Delbert O'Brien:** This is quite a simple bill to streamline and simplify the legal structure of the Pembroke and area airport. Hitherto it's been owned by 12 municipalities jointly. That was very awkward in terms of its development. This is a unique airport inasmuch as it's one of three in the province that is owned by the municipalities but totally federally funded. We don't want anything to jeopardize federal funding. They've encouraged us to incorporate and that's why we're here.

**The Chair:** Are there other interested parties present?

**Mr Mills:** There are no comments or objections from the Ministry of Municipal Affairs.

**The Chair:** Any questions in regard to this bill of Mr Conway or the applicants? No? We are then ready for a vote. Shall sections 1 through 4 carry?

Sections 1 to 4, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Is Mr Christopherson here? Mr Marchese? Mr Grandmaitre?

**Mr Sutherland:** I'm introducing the bill on behalf of Mr Marchese because he is out of town today.

**The Chair:** What about the other bills that are listed and the sponsors not here?

Interjection.

**The Chair:** I think that's essentially true. People aren't usually prepared to start meetings at this point in the morning.

1020

#### CITY OF TORONTO ACT, 1992

Consideration of Bill Pr86, An Act respecting the City of Toronto.

**Mr Sutherland:** Mr Marchese has asked me to introduce this bill on his behalf or support it here because, as you know, he is in Ottawa with the Premier and the delegation for the constitutional discussion. Without further ado, I'd like to introduce Bill Pr86. I'll let each of the three people beside me introduce themselves and their titles and introduce the purpose of the bill.

**Mr Dennis Perlin:** Mr Chair, members of the committee, I am Dennis Perlin, city solicitor for the city of Toronto. The bill was in front of the committee back in November. I think you have in front of you the transcript of November 1991. The bill, Pr86, would allow the city to pass bylaws which regulate the disposal of equipment or products containing ozone-depleting substances by delivery to recovery sites in accordance with municipal systems, or the draining and recovery of the offending substances before disposal. Perhaps it is an appropriate bill to discuss this week with the environmental conference in Rio. I understand you have the transcript.

With me are two members of the environmental protection office of the health department. We are prepared to go through the same presentation that was done in November,

but we understand that the difficulties that were then current with the Ministry of the Environment are no more and subject to the amendments, which we support, we understand the bill is now ready to proceed before you without objection. So unless there are questions, I'm in your hands as to whether you want us to proceed with the full presentation or simply leave it as in the transcript and take questions.

**The Chair:** I believe we have had a full discussion in the past. Perhaps, given the context of that discussion in the past, we could hear first from the parliamentary assistant, who tells me there are not substantive difficulties now; then, with your indulgence, perhaps you could respond to that. Does that seem reasonable?

**Mr Perlin:** That's fine.

**Mr Mills:** Thank you very much, Mr Chair. For the benefit and interest of everyone here, particularly the committee members, I have with us Keith Madill, who is the senior project specialist, waste management policy section for the Ministry of the Environment, and Ellen Pekilis, counsel of the legal services branch of the ministry. I think it would be well to listen to their comments first.

**Ms Ellen Pekilis:** This bill being considered here today and put forward by the city is in the nature of an environmental protection bill, so of course we have an interest in it. Our position, as was indicated at this time, is that we have no objection to the bill.

By way of background, it was considered before this committee in November 1991. At that time we did request a deferral because we were developing policy with respect to CFCs. We were uncertain if the bill presented a possible conflict with what we were planning to do. Now that we've had time to consider the matter and now that we understand more fully what the city's aims are in this matter, we no longer have any objections to the bill.

We are supportive of the city's interests in assisting with the control of CFCs, and we hope to participate further with the city to ensure that the specific measures for controlling CFCs developed under this bill will dovetail with our policy and minimize the risk of any inconsistencies.

**The Chair:** Thank you. Mr Sutherland, do you have anything you wish to put forth?

**Mr Sutherland:** I believe there are at least four amendments here.

**The Chair:** Perhaps you could move them.

Mr Sutherland moves that section 4 of the bill be struck out and the following substituted:

"Entry

"(4) An inspector may, upon producing proper identification, enter any place of business during normal business hours, and may make examinations, investigations, inquiries and take tests and may remove samples or objects for testing.

"Experts

"(2) An inspector may be accompanied by such technical experts as he or she considers necessary in exercising the power of entry under subsection (1).

"Removal

"(3) An inspector who has removed a sample or object for testing shall provide a receipt for it and return it to the



person from whom it was taken as soon as possible after the tests have been completed.

"Dwellings

"(4) No inspector may enter a place of business that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant."

Should we have all the amendments on the table first?

Mr Sutherland moves that clause 6(d) of the bill be struck out and the following substituted:

"(d) a person has refused to comply with the request for the production of anything, the production of which is requested for the purpose of an examination, investigation, inquiry or testing."

Mr Sutherland moves that section 7 of the bill be struck out and the following substituted:

"Issuance of warrant

"7(1) The justice of the peace may issue a warrant authorizing an inspector to enter the place of business specified in the warrant, by force if necessary, together with such police officers as may be called upon to assist the inspector if the justice of the peace is satisfied on evidence under oath;

"(a) that there is reasonable and probable ground for believing that it is necessary to enter any place of business or to make examinations, investigations and inquiries or take tests for the enforcement of any bylaw passed under this act; and

"(b) that the inspector,

"(i) has been denied entry to the place of business,

"(ii) has been instructed or directed to leave the place of business,

"(iii) has been obstructed, or

"(iv) has been refused production of anything related to an examination, investigation, inquiry or test.

"Dwellings

"(2) If the place of business specified in the warrant is also a dwelling, no warrant shall be issued under subsection 7(1) unless the requirements of subsection 158(1) of the Provincial Offences Act are met."

Mr Sutherland moves that section 8 of the bill be struck out and the following substituted:

"Execution

"8. A warrant issued under this act shall be executed between 6 am and 9 pm unless otherwise specified in the warrant."

Mr Sutherland, would you like to speak to those amendments? I know the parliamentary assistant does as well.

**Mr Sutherland:** I don't have any comments. I don't know if anyone else has on the amendments.

**Mr Perlin:** The city has no problem.

**Mr Mills:** For the benefit of the committee members, the motions have been drafted in response to the concerns raised by the Attorney General. The changes will bring the bill into conformity with the standards established by the Attorney General with reference to power of entry and the issuance of warrants. That's the reason for these amendments.

**Mr Ruprecht:** First let me say that I appreciate that Mr Perlin's here today to discuss this item. I've got two questions, really. One is in regard to the right of entry. Within the city of Toronto's boundaries there are other rights of entry already established, so this is nothing special, is it?

**Mr Perlin:** No, this is in keeping with the normal rights of entry we have under any of the legislation we operate for provincial offences.

1030

**Mr Ruprecht:** My second question is in regard to what I would hope is path-breaking legislation. Is this already established in any other jurisdiction in Canada, or are we doing something new in the city of Toronto?

**Mr Perlin:** In terms of the actual program we have with respect to disposal, it would be something new for the city of Toronto. Of course it complements, however, both federal and provincial legislation already in place, but it is an extension to an in-place, on-street, day-to-day program for the draining and handling of equipment such as air-conditioners and refrigerators that have CFCs in them. It would be new in that way.

**Mr Ruprecht:** In all of Canada?

**Mr Perlin:** That's correct.

**Mr Ruprecht:** That's great. So here's the city of Toronto again doing something that's right, just and should be emulated. Thank you, Mr Perlin.

**Mr Ron Hansen (Lincoln):** I was on committee when this bill came before it. I believe there were some problems with it. I voted for it at that time. Does this bill go back to 1987? Has this has been a long-existing bill the city of Toronto has been working on?

**Mr Perlin:** The work went back to 1987 in terms of the actual bringing forward of the first bylaw in the city utilizing our general welfare power under the Municipal Act, and we've come now with some legislation that gives us greater assurance of its enforcement capability. But yes, the work that was first done started in 1987 and 1988, and then we first passed bylaws in 1989, and now we're here with the legislation to complement that, which you already have at the provincial level.

**Mr Hansen:** I just wanted to bring that out: It's not something that just came up in November, but the city of Toronto has been working on it for a long time. Considering the population of Toronto compared to all of Ontario, and a lot of air-conditioning is in the southern part—in the northern part we don't find as much air-conditioning—I think it's a very important bill to be passed here in the city of Toronto. Maybe a lot of other municipalities in the province will be able to enforce a bill of this type with the Ministry of the Environment there, so I have to compliment you on this bill.

**Mr John Sola (Mississauga East):** I'd like to compliment the city of Toronto for answering some of the questions I had posed the last time this bill came up. I'm pleased that the amendments take care of either answering or clarifying the situation as presented the last time we sat. I'm willing to support the bill due to that.



**Mr Mills:** I would just like to clear up for the committee that this bill hasn't been delayed unduly. The application for the bill was only made last fall and is coming forward now.

**The Chair:** Any further comments? Shall the amendment to section 4 carry?

Motion agreed to.

**The Chair:** Shall the amendment to section 6 carry?

Motion agreed to.

**The Chair:** Shall the amendment to section 7 carry?

Motion agreed to.

**The Chair:** Shall the amendment to section 8 carry?

Motion agreed to.

Sections 1 to 3, inclusive, agreed to.

Section 4, as amended, agreed to.

Section 5 agreed to.

Sections 6 to 8, inclusive, as amended, agreed to.

Sections 9 to 14, inclusive, agreed to.

Preamble agreed to.

Bill, as amended, ordered to be reported.

**The Chair:** Thank you very much. This has been a long process but certainly one which has finally got its end.

#### ONTARIO ASSOCIATION OF PROPERTY STANDARDS OFFICERS ACT, 1992

Consideration of Bill Pr22, An Act respecting the Ontario Association of Property Standards Officers.

**The Chair:** Next on our agenda, Mr Hansen will be presenting a bill on behalf of Mr Christopherson which is to do with the Ontario Property Standards Officers Association. Would the solicitor for that please come forth.

**Mr Hansen:** I'll be sitting in for Mr David Christopherson, the member for Hamilton Centre, and I'd like to introduce the solicitor for the city of Kingston, Mr Norman Jackson, on Bill Pr22, An Act respecting the Ontario Association of Property Standards officers.

**The Chair:** Mr Jackson, could you also introduce your colleagues, please.

**Mr Norman Jackson:** Brian Allick, president of the association; Jack Hamilton from Vaughan; Peter Clark from the city of Kingston. They're all property standards officers in the association as it exists. This bill will provide a legal status to their association. We believe a strengthened legal status will allow them to have professional standards and generally enhance the position of a property standards officer with education; status that clerks and treasurers have enjoyed in the province in the past. We're here to respond to any questions any member may have.

**The Chair:** Do we have any questions on this?

**Mr Sutherland:** Is there anything in this association or here about a complaints procedure if someone felt a person was not living up to the standards set out by the association?

**Mr Jackson:** Yes, there is provision for discipline; as well, if someone didn't agree, the other way, there's provision for appeal to the Divisional Court.

**Mr Sutherland:** Okay, great.

**The Chair:** Any further questions?

**Mr Ruprecht:** It's all very clear in this bill.

**The Chair:** Parliamentary assistant?

**Mr Mills:** Yes, to make an amendment to the bill, Mr Chairman. In the preamble we are speaking about the designations "property standards officer" and "PSO." Later on in the bill we're saying "certified." We want to amend the preamble to use the designation "certified property standards officer." That's the amendment. All the other concerns we had were met in the revision of this bill.

**The Chair:** Mr Jackson?

**Mr Jackson:** Agreed to.

**The Chair:** You're agreeing to that amendment?

**Mr Jackson:** Yes. It's a matter of form.

**The Chair:** Mr Mills moves that the preamble of the bill be amended by striking out the designations "property standards officer" and "PSO" in the fifth and sixth lines and substituting the designations "certified property standards officer" and "CPSO."

Are we ready for a vote on the amendment? All in favour?

Motion agreed to.

Sections 1 to 15, inclusive, agreed to.

Preamble, as amended, agreed to.

Bill, as amended, ordered to be reported.

**The Chair:** Thank you very much, gentlemen, and thank you, Mr Hansen.

**Mr Sola:** Mr Grandmaitre is here.

**The Chair:** Yes, but we are in a bit of a quandary at the moment. I appreciate Ben's presence. Unfortunately, the objector has indicated she would be here, would be arriving on a 10 o'clock train, and hasn't shown up as yet. Neither Ms Cunningham nor any of her colleagues is here. We could either start with a presentation or take a brief break. I leave that to the committee.

**Mr Mills:** Take a brief break.

**The Chair:** I suggest that we break for 10 minutes and return at 10:50. We are recessed.

The committee recessed at 1042.

1054

#### CITY OF LONDON ACT, 1992

Consideration of Bill Pr10, An Act respecting the City of London.

**The Chair:** I'd like to call this committee back to order, please. Mrs Cunningham and, I believe, Mr Blackwell wish to present Bill Pr10, An Act respecting the City of London.

**Mrs Dianne Cunningham (London North):** I am presenting Bill Pr10, An Act respecting the City of London. I have with me the city solicitor, Mr Blackwell. I think it's appropriate that I read the explanatory note and then perhaps you could advise us otherwise.

"The bill amends the City of London Act, 1989, to authorize bylaws to require signs on public parking lots



from which motor vehicles are towed without their owners' consent; to designate classes of public parking lots to which the bylaws apply; and to provide that the suspension of lien rights in that act apply, despite the Repair and Storage Liens Act."

**Mr Robert A. Blackwell:** This is, I guess, a somewhat controversial matter. As indicated already, we obtained proper legislation in 1989 dealing with this matter and are coming before the committee to extend that legislation and perhaps to give the committee some insight into the subject matter we are dealing with. I thought the best thing to do would be to bring with me a short, 10-minute video. With the committee's indulgence, I'd like to have that shown and then perhaps I can make some remarks after that.

[Video presentation]

1106

**Mr Blackwell:** I would like first of all to make a couple of comments about the video. One is that it's an objective video in the sense that it's made by a disinterested party. From that standpoint, I think the committee can take it as a fair representation of the situation that exists and has existed in the city of London for some considerable period of time. Second, it's rather significant that a national TV network would take the time to come down to London and do a segment on this particular problem. To me it indicates that it is a significant problem, one which we've been attempting to address for some considerable period of time.

Now, there are some statistics in the video which bear repeating. I take them from the video. I haven't verified them and therefore they're second hand, but the comment was made that towing occurs, on the average, about 20 times a day in the city. There were 7,800 tows done in a year approximately, and at an average charge of \$100, so by rapid calculation, or slow calculation, that comes out to over \$750,000.

There are some people who obviously take advantage of a parking situation. We readily admit that, but I would say the great majority of people who are affected by this practice are basically law-abiding citizens who honestly believed that they could park there, that they were not at risk, and yet they have fallen victim to this.

I brought with me copies of letters which have been received by the mayor's office, the visitors and convention bureau, the chamber of commerce, the Ontario Ministry of Tourism and Recreation, the Ontario Provincial Police. They are from all over; they're from London, Vancouver, Montreal, Albuquerque, New Mexico. The gentleman from Albuquerque, New Mexico, came to a homecoming reunion at the University of Western Ontario last fall, the 25th anniversary. He went around the city, did shopping with his wife, and was towed. On the Monday he was so disgusted that he took back every item he'd purchased and it ran to over \$1,000.

The public relations aspect the city is suffering from is immeasurable. We have letters coming in from people who say they'll never come back to the city again. We had a letter from somebody who said it was like being mugged in a parking lot. You talk about New York, people being

mugged there. This person complained about being mugged in London, having to pay \$150 to get a car back.

With those remarks and I make them strongly, because Mr Nash is here today—he's going to make submissions to you. He's going to be very pleasant with you, because he has a point to get across, and I want to get my point across to you.

We obtained legislation back in 1989 to address the situation. We're pioneers in this. The only other community I know of that suffers from this type of thing is not Toronto, but Montreal, and Montreal is attempting to deal with it, as we are too. The legislation which we obtained we felt would address the situation. We have found during the intervening three years that there are some problems or some loopholes.

Let me briefly explain to you what we obtained in 1989. We got the power to regulate and license businesses that are engaged in what we call unsolicited towing; that is, the towing of motor vehicles where the owner or operator of the vehicle has not consented to the towing; unsolicited towing. We got power to regulate and license businesses that engage in that type of towing, businesses that store vehicles that are subject to unsolicited towing.

We obtained legislation to regulate compound hours so that people could actually get access to the compound and get their vehicles back. We obtained legislation that suspended the right to a lien if the vehicle was parked for less than 24 hours before it was towed or if it was stored for less than seven days after it was towed. We obtained legislation that would allow us to suspend, after a hearing, the licence of any of these businesses, and of course an offence provision.

What has occurred is a dispute on a couple of things. First of all, there is a question or a difference of opinion between the city legal department on the one hand and the crown attorney's office and the police department on the other hand as to whether a parking lot that is attached to a convenience store or a bank or some other facility is private or public. We take the position that it is public, that the bylaw applies to it. The police and the crown attorney have taken the position that no, it's private. So what we're asking through this legislation is the ability to classify parking lots and to identify those classes that are public so that there can be a clear indication of what lots the bylaw applies to and which lots it does not.

There has been, second, a complaint about signage—lack of it, insufficient signage—so what we're looking for is the power to require the owners or occupants of those parking lots who want this type of towing to go on to post a prescribed type of sign so that every member of the public who enters upon that parking lot will have some familiarity with the rights and obligations that go with parking there. That's very simple.

Third, there has been a question as to the application of the Repair and Storage Liens Act. At the time we obtained our private legislation in 1989, the Repair and Storage Liens Act was before the same session of the House. In fact, it was introduced before our bill, but it received royal assent after ours. Consequently, our bill did not reflect that legislation. We simply want to clarify that the suspension



of lien rights in the circumstances I have described exists despite the Repair and Storage Liens Act.

What I want to emphasize is that the city of London has never prohibited towing. Towing is always, and has always been, available to any person to remove from his or her property a vehicle that he or she doesn't want. All we're attempting to do is to make towing fair and to eliminate the predatory situation that exists where people are literally towed one or two minutes after the expiration of the time they're there, to eliminate situations where, when they come out and time is still on the meter, their vehicle is hoisted up and the driver's standing with his arms folded waiting for the time to click off before he drives off.

We're just trying to make it fair. We feel it's a balanced bill. We believe it balances the interests of the public, which is invited or encouraged to come on to parking areas to park, against the interest of the business, which has a legitimate concern about people who abuse parking privileges and wants to have parking available for legitimate customers.

With those remarks, I will leave it at that. I will happily answer any questions the committee may have.

**The Chair:** Thank you, Mr Blackwell. Before that, we obviously have a number of people who are objectors or interested parties. You might have to step aside because of the number of people involved, Mr Blackwell. Then, when the committee members are ready to pose questions, perhaps we could have only one person from each party present in front of us. Does that seem reasonable, gentlemen? Mr Ferguson?

**Mr Douglas Ferguson:** Yes, Mr Chair. Mr Dewar and I are solicitors representing QAP parking enforcement. With your permission, we'd both like to appear before you. Mr Dewar will carry the ball.

**The Chair:** Mr Ferguson, when I was suggesting that there seemed to be a number of people who were interested—Mr Nash I recognize from the film, if he would like to come forward as well—I was simply suggesting that you might need all four seats in order to make your presentation.

**Mr Ferguson:** That's fine, Mr Chair. Mr Dewar and I represent Mr Nash, and Mr Dewar will be making most of the submissions to the committee.

**The Chair:** Fine. There were a couple of things I certainly noticed in the film. There were some derisory remarks about Mr Nash's character and there were some allegations in the film which are not part of the bill. I'm sure people, when you view something like that, would find those items somewhat distracting; I hope that won't come up during our debate on this bill.

**Mr Hansen:** Leave it up to the members to ask questions.

**Mr Sutherland:** Can we have their presentation?

**The Chair:** Certainly.

**Mr Ferguson:** Mr Dewar will make the presentation.

**Mr William Dewar:** Thank you, Mr Chair, members of the committee. I am here on behalf of Mr Nash. Mr Ferguson is here to assist me.

My submissions really are two. The first submission has to do with the last thing Mr Blackwell was discussing, which is the apparent conflict with the Repair and Storage Liens Act.

To give the committee the chronology of legislation, the City of London Act received royal assent and was in force on February 27, 1989. That is the private act that is being sought to be amended before you today, so February 27, 1989, is the first date, and that's significant because that's when this act was passed. The second significant piece of the legislation that occurred was the passage by the province of the Repair and Storage Liens Act, 1989. That came into effect and was in force as of October 10, 1989.

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My first submission is this: If this committee accedes to Mr Blackwell's submission and is prepared to amend the City of London Act so that it provides that the suspension of the lien rights in the existing act will survive the Repair and Storage Liens Act, that will amount to a very significant interference with a system that's in place in the province called the personal property security registration system.

As many of you no doubt know, the province enacted two significant pieces of legislation which comprise part of a system. The system is called the personal property security registration system. The two acts that comprise that and operate under that system are the Personal Property Security Act and the Repair and Storage Liens Act. The system is province-wide. It really is comprised of a large database for registration and retrieval of information.

Why is the Repair and Storage Liens Act significant? The Repair and Storage Liens Act applies to tow. The definition of the word "repair" under the Repair and Storage Liens Act includes specifically the towing of an article. The towing of an article is not, in that provincial act, any further defined so as to distinguish between tows from public or private property or to distinguish between tows with or without the consent of the owner or operator of a vehicle.

Why I'm suggesting to you that if you give Mr Blackwell what he's asking it will interfere with the operation of the system is this: When somebody, say a creditor, finances the purchase of a car for an individual, that creditor, as you know, will register in the personal property security registration system a claim which is called the financing statement. That tells the world that the creditor—let's say it's Avco Financial Services—has a hook on that car to the extent of the amount owing on it, and that provides a priority interest in that car.

Creditors do that, and the very same form, which is called a claim for lien form under the Repair and Storage Liens Act, is used by people who repair or store articles. That Repair and Storage Liens Act gives towers certain rights, province-wide, as part of this system. That Repair and Storage Liens Act is itself entitled An Act to revise and consolidate the Law of Liens for Articles Repaired and Stored. It's a consolidation of the law; it's a code. It came after the City of London Act. I say that it impliedly repealed the City of London Act, because it's in direct conflict with that act. The Repair and Storage Liens Act says, as clearly as it can be stated, in section 3:



"In the absence of a written agreement to the contrary, a repairer"—that can be read "a tower"—"has a lien against an article that the repairer has repaired for an amount equal to (a) the amount that the person who requested the repair agreed to pay"—of course, in the video we didn't see any signs of agreement, unless you interpret the sign saying, "Don't do it or you'll have to pay" an agreement—" (b) where no such amount has been agreed upon, the fair value of the repair; (c) where only part of a repair is completed, the fair value of the part completed"—and here comes the important part—"and the repairer"—read "tower"—"may retain possession of the article until the amount is paid."

That's crystal clear under provincial legislation intended to operate from coast to coast in the province: A tower may retain possession of the vehicle until the amount is paid.

Along comes the city of London and, under its act, section 4 says exactly the opposite. It says, "If you take a car from a public parking facility without the consent of the owner or operator of it, you have no lien." Well, you do have a lien, subject to the 24-hour rule and the seven-day rule that Mr Blackwell told you about. That's a direct conflict between the City of London Act and its bylaw and the code enshrined in the Repair and Storage Liens Act.

If you tamper with this code—and that's really what Mr Blackwell is asking you to do by saying that the City of London Act will apply, even though the Repair and Storage Liens Act says otherwise—what you will be doing is tampering with a province-wide system, enacted as the policy of the province, to set up an orderly method to deal with priorities that people have in the same piece of property.

For example, if you have a car that's owned by someone subject to a lien that's registered in favour of General Motors Acceptance Corp and that vehicle is sought to be purchased by somebody, the purchaser is going to go and search in the database and see that GMAC's got a lien on it. If that article happens to be repaired by a mechanic who, under the RSLA, has let the car go back to the customer without getting fully paid for it, that mechanic can register in the system too. He registers what's called a non-possessory claim for lien. So the whole world knows that if somebody wants to buy that car GMAC has got a hook on it and a mechanic down the street has got a hook on it too under the Repair and Storage Liens Act.

Let's say that somebody comes along and buys it without searching, or let's say another finance company puts a lien against it. The question of priorities—who's got the best right to that car—will arise. Under the Repair and Storage Liens Act the mechanic has, because section 6 of that act gives him absolute priority over everybody else who's got an interest in that vehicle.

If Mr Blackwell has his way that won't be the way things are in London, albeit that's going to be the way things are in the whole rest of the province. The province has set up 49 different centres, each with a computer in it, called local registry branches for people interested in the status of ownership and claims against personal property to search. If Mr Blackwell has his way there will only be 48 in the province where that means anything.

What will happen in the city of London is this: From the point of view of a tower, like Mr Nash, who complies with the rights he has under the Repair and Storage Liens Act—and let's say Mr Blackwell convinces you to do what he wants you to do—Mr Nash knows that there's no such thing as a lien in London any more unless he satisfies the 24-hour, 7-day rule. Now, let's say Mr Nash goes to the registry office and tries to register a non-possessory claim as he's entitled to under provincial law. Is the clerk behind the counter supposed to look at it and say: "First, I have to know, Mr Nash, whether this vehicle was towed from a public parking facility. Second, I have to know"—I guess the threshold question—"was it towed in London here? Third, was it towed with or without the consent the owner?" The person registering this document is not expected to know these things. The clerk behind the counter isn't expected to have to ask these questions. Why? Because this is supposed to be a system that runs smoothly across the whole province. If Mr Blackwell has his way, that's not going to happen in London. That's from the point of view of a tower.

From the point of view of a motorist, a motorist from Thunder Bay knows that if he parks under a sign that says "If you park here you're going to get towed away" up in Thunder Bay, where there's no similar legislation, he's probably going to have to pay the price that he's been warned he's going to have to pay. But if he drives down to London, and Mr Blackwell's amendment is made into law, then that motorist who parks under the same sign here in London has a whole different packet of rights to deal with than he had when he was in up in Thunder Bay. He can say, "As long as I don't park here illegally for more than 24 hours I can park here illegally and go unpunished."

Mr Blackwell will say: "Oh no, you can sue in Small Claims Court to get the towing price. We don't object to towing. We think Mr Nash should resort to Small Claims Court." That's what Mr Blackwell suggested to the committee that heard his application back in 1979 for the original bill. The fact of the matter is that Mr Nash has about a 22% recovery rate in Small Claims Court. If Mr Blackwell has his way everything is going to be resolved in Small Claims Court, which is going to put an enormous burden on the Small Claims Court system, in addition to the burden it's already looking at when its jurisdiction increases in the rest of the province.

That is the situation from the point of view of a motorist. He's got different rights in Thunder Bay than he's got in London.

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From the point of view of third parties, it's even worse. If a lien is illegal in London and a claim for lien can't be registered in London, what's the scenario when somebody wants to buy a car? Let's say that I want to buy a car in London, and I search and there is a claim for lien registered. I can take the position as a purchaser that the claim means nothing, because after all it's in London and London's got an act and a bylaw that say you can't have a lien, notwithstanding that the RSLA says that in every other city in the province the lien would be valid.



A purchaser looking at a car subject to registrations in London is going to have to engage in an inquiry as to whether the lien under the Repair and Storage Liens Act was there because of a tow from a public parking facility and whether it was a tow of a motor vehicle done without the owner or operator's consent. That's going to lead to more litigation. That's going to bog down the system of personal property registration in Ontario that this province intended to act smoothly and uniformly. I say that advisedly because it's said to be an act that consolidates and revises the law.

That's my first submission, that giving effect to this amendment that basically suspends the rights to a lien that is otherwise available under a broad piece of Ontario legislation is creating an island out of London. That's going to interfere with the smooth operation of the personal property security registration system. That's my first submission.

My second submission is that this matter is before the courts already anyway. What Mr Blackwell is asking you to do is to speak on a private act; that is, the original City of London Act, that is itself already under attack in the courts. It's under attack in the courts in two contexts.

For the first time since it was passed back in 1989, Mr Nash was recently charged with violating the bylaw. All other times he's been charged with mischief under the Criminal Code. This time he was charged under the bylaw. His defence is that the bylaw is invalid. That has not been yet disposed of. That's pending in the city of London. It's before His Honour Judge Walker, who asked counsel for the city and me to give him written argument on the question of whether the City of London Act and the bylaw are valid pieces of legislation or whether they have been impliedly repealed by the RSLA. That's the first context in which it's before the court.

The second context is that Mr Nash has started an action in Ontario Court (General Division) for a declaration of the truth of what I'm saying; that is, for a declaration that he's got the rights under the RSLA unimpeded and not interfered with by the City of London Act and the bylaw.

What's happening here is that the city seeks to have you amend a piece of legislation that's already under attack in two courts in the province as we speak. In my respectful submission this committee should keep its hands off that legislation until the courts have dealt with it because they're going to be dealing with the same questions that are being put before you.

Those are all the submissions I think I can usefully make to you. My friend Mr Ferguson may have some supplementary matters that I've neglected. Thank you for your attention.

**Mr Ferguson:** I want to point out to the committee that there is another thing that you should be looking at, in my submission, and that is the effect on businesses in the city of London. Mr Nash's company has been retained by several businesses in the city to patrol their parking lots. Why? Because people who are not customers park there and prevent legitimate customers from shopping there. For instance, there is a Hasty Market in London that initially used QAP, decided it would rather not and found after QAP stopped patrolling the lot that illegitimate parkers

were using the facilities and its own customers could not get in there. It got so bad they asked QAP to come back.

By passing this bill, it would tie the hands of QAP and the property owners who need someone like QAP to ensure their customers can have access to their stores. I'm sure I don't need to tell you that in the midst of a recession when retailers are suffering, they don't need something like this to harm them even more.

Something else I'd like to point out to you is that QAP's contract with the business owners provides that it's the property owners who end up having to pay the towing charge to QAP, and QAP then acts as the agent for the customers, that is, the property owners, to collect the charge from the parking violator. If QAP is unable to collect, it's going to be the business owners, the property owners, who have to make up the difference, again to their detriment.

If he ends up having to go to small claims court—Mr Dewar mentioned this—if the small claims court system gets backed up in London because of the passage of this bill, not only is it going to cause the backlogs—you know, any backlog is a problem for justice in our province, but I think it could end up costing the province more money to deal with that backlog.

Last, I think what we have here is really a vendetta against QAP. Mr Blackwell candidly admitted this is aimed at QAP Towing. You heard the comments the mayor made. He's a convenient political target. Everybody loves to hate him. I think that is one of the reasons behind the city's request to pass this legislation.

**The Chair:** Thank you, Mr Ferguson. Anything further, gentlemen?

**Mr Ferguson:** One other matter I just want to point out to the committee is that you're left perhaps with an impression from the video that was incorrect. The tows from the meters that you saw there only constituted about 15% of Mr Nash's tows. The vast majority of them are from private lots, businesses and so on, without meters. Keep in mind that there are signs for people to read, and the signs that QAP has on its parking meters are larger than the ones the city has on its parking meters. So it's there. If people just look and read, they're warned.

**The Chair:** Thank you. The parliamentary assistant?

**Mr Mills:** Our ministry has no comment and nothing to say.

**The Chair:** Thank you. For the purposes of the committee members, Mr Doppelt, the senior solicitor from the Ministry of Consumer and Commercial Relations, is here. I believe you are willing to take any questions committee members may have.

**Mr Allen Doppelt:** Yes. I was counsel for the ministry in the drafting of the Repair and Storage Liens Act and worked on that legislation over an eight-and-a-half-year period. I'm very familiar with the legislation and would be pleased to answer any questions concerning it.

**Mr Sutherland:** Are we at comment stage now, or question stage?

**The Chair:** We are at question stage, yes.



**Mr Sutherland:** I guess I've got a couple of questions and some comments. Maybe first I should declare a conflict of interest.

**The Chair:** I'm sorry. Before we do that, my apologies for taking such a long time, Mr Blackwell.

**Mr Sutherland:** First of all, I guess I'd better declare my conflict of interest, having been towed by QAP at least once and I had my vehicle up on their hoist one other time. I must say that on both those occasions they were very legitimate.

I want to express some concerns, though, that I certainly know of incidents, and as Mr Blackwell has mentioned, of situations where your drivers, Mr Nash, from QAP have already got their hoist under the car, got the car up on the hoist, before the meters have even run out. I also am very well aware that many of your drivers intimidate the people. I have had people tell me that your drivers have said to them, "If you don't mind your own business"—and I'm being nice as to how they've said it, because you can well imagine how they're really saying it.

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**Mr Ron Eddy (Brant-Haldimand):** Say it.

**Mr Sutherland:** No, I won't put that in Hansard.

If they don't mind their business, people who are maybe letting other people know what their rights are on this issue, your drivers take their licence plates and keep a blacklist, and I take that as very threatening and intimidating.

I think the nature of the business here is that you're not going to make a lot of friends. We all recognize the fact that no one likes to have his car towed, and fair enough, you're doing a business. But I think what it comes down to, regarding this legislation, is that there are still responsibilities upon you as an individual operating a business of this nature to deal with some of these issues. It would seem to me that on many occasions these issues haven't been dealt with and that in many cases your drivers are carrying out their activities in a threatening, intimidating manner.

I want to deal with this comment about the businesses. I don't think it has an effect on those businesses that have the towing lot. As a matter of fact, I think from the examples we've heard, they're losing business. I would like, though, some comments from staff on the personal security system, and maybe some comments too from Mr Blackwell as to whether he agrees with Mr Dewar's points about the lien system, that if you pass this bylaw the lien system in effect will not be operating in London, and in fact it will be an island and you'll have two standards across the province.

**The Chair:** I'm wondering if that latter question might be directed to Mr Doppelt rather than Mr Blackwell.

**Mr Sutherland:** Sure, either way, if we could have some comment on those two points that were raised.

**The Chair:** He has some specific knowledge on that issue. But the first question really has to do with the—

**Mr Sutherland:** On both questions, the personal security system and the question about whether you won't have any lien system in effect in London by passing this bylaw, perhaps we could have a comment on both those points that were made by Mr Dewar.

**The Chair:** You had an earlier question. I'm not sure it had directly to do with the bill, though.

**Mr Sutherland:** No, I wasn't asking a question earlier. That was a comment on the overall situation.

**The Chair:** Yes. I guess I go back to the concern I had stated earlier, that there were issues in that videotape which came up which, whether they're legitimate or not, are largely irrelevant to the passage of this legislation.

**Mr Sutherland:** I think those comments need to be put on the record for consideration, but if we could have some comments from counsel, that would be great.

**The Chair:** I think it's only fair to allow Mr Nash to respond to those comments.

**Mr Sutherland:** That's fair enough.

**The Chair:** And then to Mr Doppelt. Mr Nash.

**Mr George Nash:** Thank you, Mr Chair. I guess my mike is on. The lights are not.

He was referring to the trucks towing the vehicles away before the meter had come in violation. We take pictures of the meter and the car before it's hooked up and towed away. We've been doing this for over two years now. Each truck is equipped with a Polaroid camera. They take a picture of the vehicle, showing it in violation, and they take a closer picture of the meter, showing that the red flag is up before it is towed.

**The Chair:** Thank you, Mr Nash. Mr Doppelt, a response to the latter two questions.

**Mr Doppelt:** I guess one of the questions was about the way the registration system works and when a lien arises. The first point I would make is that money has to be owing for the repair, in this case the towage, to the repairer or the towage company. If they're paid for that repair or towage, then there are no lien rights.

The second point is that when they take possession of it, they have possessory lien. That has nothing to do with the registration of a claim for a lien. The claim for a lien is only registered when a non-possessory lien comes into existence, and that non-possessory lien does not come into existence until basically two conditions are met. First, in this case, the towage company would have to give possession back to the owner. Second, that owner would have to sign a receipt or other written acknowledgement that money is owing for the towage. Only then is there entitlement to have an enforceable lien and would there be a registration of a claim for lien. I just wanted to make those clarifying points.

As far as the definition of "repair" is concerned, it definitely does include towage. In fact, as I recall, when we drafted these amendments, that was done specifically at the request of the association of towage companies.

As I read this proposed bill in relation to the Repair and Storage Liens Act, it does not eliminate the lien. What it does is impose additional conditions precedent for there to be an enforceable lien. Of course, initially there has to be a possessory lien in that time periods are applied. There's no doubt those conditions don't apply elsewhere in the province. In other words, under the general law in the Repair and Storage Liens Act the lien would arise immediately when the towage begins. There's no waiting period.



To that extent, it certainly does modify the general law. If this proposed legislation is passed, obviously towage companies would then have to comply with these additional conditions in terms of time periods. Otherwise they would not have a valid possessory lien under the Repair and Storage Liens Act.

**Mr Hansen:** I guess I was lucky last time I came into London. I came by bus and the bus was outside the hotel when I got out the next morning. It wasn't towed away, and it was parked in a no-parking zone there also.

I think it's very important that some of these regulations are being proposed by the city of London because it seems there is a problem in London with towing. I think we have to take a look at why the mayor has been saying that and why this is being done.

Mr Nash, are you a member of the chamber of commerce in London?

**Mr Nash:** No, I'm not, sir.

**Mr Hansen:** You're not, and yet you're one of the larger towing companies in London. Why would you not be a member of the chamber and discuss some of these issues that are going on?

**Mr Nash:** They haven't invited me to be there, sir.

**Mr Hansen:** But the stores you operate for are members of the chamber?

**Mr Nash:** Yes, they are. The system we have with the stores is that they request us to patrol their lots for them, and if anything that's in there doesn't belong they ask us to have it removed.

If I may make a comment, in the video they stated that it looked as if all those vehicles were towed away from metered lots. They were not. In that video three out of the 26 were towed from metered lots. The metered lots are less than 15% of the business. There are less than 50 metered parking spaces out there that we tow from. Most of it is from monthly parking lots, plazas, apartments and so forth, where they have well-posted signs on each one of the lots, at the entrance. In most cases they have a sign 24 inches by 30 inches in front of each parking space stating that if you park here you'll be towed away, and the rates are posted on the signs, what the cost will be to have it towed away.

Our rates are far less than suggested by the national towing association and the towing society. We are far lower than they are. Originally the city set the towing rates at \$40 for a tow, \$40 for dollies and \$10 a day for storage, and between 7 pm and 7 am there is an additional \$10 added to the tow. The storage is \$10 for the day. What was suggested when they amended the bylaw was that it be a \$15 surcharge for the compound opening after hours and \$15 for the release of the vehicle. If your car is towed at 7 o'clock at night your tow charge would be there and your fee for opening the compound would be there, and if the person picked it up after hours there is an additional \$15 added to it.

The city failed to state that you pay a separate licence for towing than you do for storage. You could be the tower and I could be the storage company. If you bring the vehicle in after hours, then we would charge the \$15 for someone to open up the compound to bring the vehicle in, and if

someone comes down after hours to pick the vehicle up there's an additional \$15 for somebody to get out of bed and come down and release the vehicle.

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**Mr Hansen:** Section 2 actually gets into signage. Maybe I should be asking the solicitor for the city on this one. I have a problem when I go to a small plaza. In some of them one's here, one's next door, but they're two different lots. I might run into the clothing store and then after I've been in the clothing store I go to the next mall, which is next door but might be separated by a concrete curb. I have been a customer there, but now I'm a customer in the next section. Do you mean that if I'm parked in that lot and I've finished my business and I ran next door, there's a good likelihood my vehicle would be towed away? What would the sign state, "This Is For Customers Only"?

**Mr Nash:** The sign states, "For Patrons Only While In Store." Judge McCart ruled on this two years ago. A gentleman had parked at Tim Horton Donuts at York and Talbot, got his doughnuts and coffee, walked down a block to the bus depot to pick up his wife. He waited about 20 minutes, I believe. He came back and his car was gone. The judge ruled at the time that you're no longer a customer once you've completed your business transaction.

**Mr Hansen:** Okay, so the wording's a little bit different. I took it at as I've been a customer and I'm still a customer. I finished my transaction but I'm still a worthwhile customer of that store even though I've maybe stayed an extra 10 minutes because I walked next door to the next store. I guess maybe we need a real education in London or in Ontario of what's going on on that signage that's up there to make it very clear.

**Mr Nash:** The signs state very clearly, "For Patrons Only While In Store." We have a check system that we do for the different stores. Depending on what they want, every half-hour we have the lot checked. We'll go in at 8 o'clock, write down the licence numbers that are on the lot and go back in a half-hour later. If the same vehicle's there, we will check inside the store with the clerk to see if the vehicle belongs. If it belongs, it stays; if it doesn't belong, then they sign the bill to have it towed out, or give us a PO number.

**Mr Hansen:** I have to say that I'm going to support the city on this particular bill.

**The Chair:** Ms Cunningham, was there a question or a statement?

**Mrs Dianne Cunningham (London North):** A question. I was interested in the practicality of these liens. Just how many are we looking at? I did hear the number earlier that over a period of a year—I'm not sure which year—there were some 7,800 tows. I'm not sure if that's a number you would agree to or not. This question, Mr Chairman, is obviously through you to one of the representatives of the objector, Mr Nash. How many liens would there have been there? Out of those 7,800, or in any one year, what would be the average number of liens you would have been able to apply, if necessary?

**Mr Ferguson:** I'm informed by Mr Nash that he has approximately 450 outstanding claims for lien that he



could enforce at this point. I don't know over how long a period that is, but it gives you an idea of the numbers.

**Mrs Cunningham:** Yes, except that if it's over the last seven or eight years and these are things that are still sitting on somebody's books. It's not very practical. My question was, in a period of one year, approximately how many liens would you have?

**Mr Ferguson:** Mr Nash has told me that 450 is over seven months, so you can extrapolate from that.

**Mr Nash:** These are liens that could be registered at the present time. There are over 3,200, total, that we have not been paid for as of yet—3,207, I believe it is, tows that have not been paid for as of yet. That is over a two-year period.

**Mrs Cunningham:** So you really do allow people to take their cars away from your compound without paying?

**Mr Nash:** Yes. When the person hasn't got the money on him, he signs acknowledgement of the lien. Then we have a lien against the vehicle at that point.

**Mrs Cunningham:** What would have happened to that young woman who came late at night if she had not had the money?

**Mr Nash:** If she had not had the money, she'd have been given the time to pay it, if it was from a metered parking lot.

**Mrs Cunningham:** If it was from a metered parking lot?

**Mr Nash:** If it was from a metered parking lot.

**Mrs Cunningham:** I see, from one of the 50 meters.

**Mr Nash:** From one of approximately 50 meters. If it had been from a Hasty Market store or 7 Eleven store or whoever requested it, or from your driveway, we'll say, we hold the vehicle till it's paid for.

**Mrs Cunningham:** My second question is this, then. Of the number of liens you have, would those be liens that would probably be there because the person collected his car within hours of its being towed?

**Mr Nash:** That's correct.

**Mrs Cunningham:** So if in fact this law said you had—I'm looking at it here: "parking facility for a continuous period of 24 hours or more or...unless a vehicle is stored for a continuous period of seven days or more." This would certainly diminish the number of liens because of the time frame in this proposed new piece of legislation.

**Mr Nash:** It would increase the liens, because the people wouldn't be paying for the vehicles before they took them from the compound. It would definitely increase the amount of liens that would be out there if we weren't able to hold them until they were paid for.

**Mrs Cunningham:** I'm not following that one at all.

**Mr Nash:** Originally, when they wrote it, we weren't able to hold any vehicle from any premises. The police department told us we had to release them and file a lien against them. When it was ruled that we did have the right to hold the vehicles until they were paid for, this solved the problem of the Hasty Market, 7 Eleven, your driveway or the apartment owners. But from the metered lots, the people

who owned the metered lots, we get a lien on the vehicles that are towed from there. They sign the lien before they release the vehicle to them, because the city has stated that we cannot hold the vehicle.

**Mrs Cunningham:** I think you get the gist of my question. Perhaps if there's a difference of opinion there, one of the solicitors either for the committee or for the city could clarify for me, because I'm obviously not with it on this particular point.

**Mr Eddy:** I wonder if there was any word or objection from any property owner or if anyone present is in fact representing any of the property owners directly.

**The Chair:** Are there any other interested parties present?

**Mr Ferguson:** We have some letters from a couple of property owners. There are more coming that we couldn't contact, but we do have that and I'd be happy to file them with you.

**The Chair:** Is that what you were requesting, Mr Eddy?

**Mr Eddy:** Yes, that's one thing. The other question I have is of Mr Blackwell. Would the passing of the act that's been applied for put the city in the same position as it was prior to the passing of the new act—not the city act, the—

**Mrs Cunningham:** The Revised Statutes of Ontario.

**Mr Eddy:** Yes.

**Mr Blackwell:** I'm sorry, I'm not quite clear on the question that's being asked. I wonder if Mr Eddy could ask it one more time.

**Mr Eddy:** This is an act to amend the previous act of the city of London, and it's necessary to have it amended, apparently, because of the passing of the Repair and Storage Liens Act, the new one. Is that correct?

**Mr Blackwell:** I think I understand.

**Mr Eddy:** Would a passing of this amendment put the city in the same position as it was previously?

**Mr Blackwell:** I believe it would, but let me explain why I say I believe it would. As pointed out to you earlier, the city's 1989 private legislation and the Repair and Storage Liens Act were passed at the same sitting of the Legislature.

My view is that the Legislature is taken to know what it's doing and intends to happen what it is doing. Therefore, if you take the two pieces of legislation, it's my view that the Legislature fully intended to give or to circumscribe to a limited extent the effect of the Repair and Storage Liens Act in London in situations where we have unsolicited towing where the vehicle was parked for less than 24 hours or where it is stored for less than seven days after it's towed. In every other situation, the Repair and Storage Liens Act would apply.

Having said that, the problem with the 1989 private legislation is that there is no specific reference to the fact that it is to apply despite the Repair and Storage Liens Act, and that's all we're asking for today. We're not asking for the suspension of lien rights; we already have that. The other course I suppose we could take is to go to the courts and seek a declaration to the effect that the Repair and Storage Liens Act doesn't apply, but it seemed infinitely



simpler to simply come back to the Legislature and say, "Declare for us what we believe it was your intention to do in the first place."

Could I just make a couple of other comments, Mr Chairman?

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**The Chair:** Certainly. I'd like to bring to people's attention that I think we're close to wrapping up on this bill.

**Mr Blackwell:** Very simply, you've heard a lot of technical explanation and presentation. If I can take you quickly through the bill, I want to say to you that so far as my friend's submission goes, really, what we're doing doesn't affect them at all.

Section 2.1, which deals with signage, is no problem, because you've already heard from Mr Nash that the lots have signs. All the city is seeking to do is to have some uniformity of signs, uniformity of location and so forth. So that shouldn't pose a problem.

Section 2.3, as I explained to you, already exists except for the words, "despite the Repair and Storage Liens Act." You've already heard from Mr Nash and my friend that QAP gets paid by the store owner, so they don't need a lien. And in my view, the store owner isn't entitled to a lien because the store owner isn't in the business of towing. So what effect does 2.3 have on Mr Nash? It has none. In effect, I say there's no opposition to this, despite what you've heard. On that basis, I close my remarks, Mr Chairman.

**The Chair:** Thank you, Mr Blackwell. Any further comments or questions?

**Mr Dewar:** Mr Chairman, may I just say one or two things? I promise I'll be brief.

I gathered from my colleague, counsel for the ministry, that he and I are in agreement on the point that if this legislation goes through, London will in fact be an island, with a different set of laws regarding liens than the rest of the province. My friend and colleague from the ministry indicated that there will be conditions precedent; certainly he said there will be conditions precedent in London to getting to file a non-possessory lien. I say that frustrates the intent of the province to have this act smoothly coast to coast.

One thing we haven't dealt with and no one's dealt with yet today is that part of the amendment that seeks to enable the city to classify certain property as either public or private. If this bill goes through today, the city will have the power to point the finger at the 7 Eleven store owner and say: "That's private property—until today. From here on in, it's public property as far as this act is concerned." The effect of that makes it unlawful for the proprietor of the 7 Eleven store to pay what it takes to clear illegal motorists out of his lot. That's what's going to happen. The magic of converting private property into public property is something that is going to happen if this goes through today too.

My last remark has to do with the remark that the Legislature's intended to know what it's doing. I agree with that comment. What it said it was doing when it passed the RSLA was revising and consolidating the law. Mr Blackwell and the mayor want this to be fair. We just

want it to be legal, and I repeat that the court ought to be allowed to make that decision before you do. Thank you.

**The Chair:** Thank you, sir. Further questions from the committee members? Hearing none, are we ready to vote on this bill?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

#### CITY OF OTTAWA ACT, 1992

**The Chair:** With your indulgence, Mr Grandmaitre, as we have the solicitors from the city of Ottawa in front of us, on the previous bill from the city of Ottawa, Bill Pr18, there was an amendment which wasn't brought to my attention. I'm wondering if we can, as a committee, deal with that amendment now, prior to the introduction of your bill, sir. The committee dealt with the bill so quickly that we overlooked the amendment that was meant to be made to the bill. With the committee's consent, can we reopen the bill, put the amendment and report the bill as amended?

Mr Sutherland moves that subsection 1(2) of the act be amended by striking out "rental agreement" in the last line and substituting "tenancy agreement."

Any comments on that amendment?

**Mr Mills:** Yes, Mr Chairman. The reason for the change is conformity with the Landlord and Tenant Act.

**The Chair:** Thank you, parliamentary assistant. All in favour of the amendment?

Motion agreed to.

Bill, as amended, ordered to be reported.

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#### CITY OF OTTAWA ACT, 1992

Consideration of Bill Pr27, An Act respecting the City of Ottawa.

**The Chair:** We are now on to Bill Pr27. Mr Grandmaitre.

**Mr Bernard Grandmaitre (Ottawa East):** Thank you, Mr Chair. First, I suppose everybody is interested in baseball and fair play, and this is why we're before you this morning: fair play.

Mr Chair, since 1989 the city of Ottawa and a promoter have been trying to obtain a franchise and also to build a stadium in the city of Ottawa. Finally, on May 1 the OMB gave approval to the zoning changes and now we are on our way.

Usually, or ordinarily, municipal projects of this kind are tax-exempt. But in this case, it is a little different and this is why we are before you this morning. The arrangement or the agreement to operate and to maintain the stadium will be done not at the municipal level, but through a private enterprise or a private tenant. This is the reason special legislation is needed. I can tell you that the present government of Ontario has worked very closely with the city of Ottawa in order to obtain such a franchise and also to create jobs in the Ottawa-Carleton area. I have before



me two letters signed by the Premier approving of such a stadium.

**Mr Sola:** Which Premier?

**Mr Grandmaître:** The present Premier. Also, the RMOC, the regional municipality of Ottawa-Carleton, and the school boards concerned with this bill have not objected to this tax exemption. I think it's very important. The total tax bill is around \$175,000: \$174,720. So it's really a partnership, and this is what the government has been trying to do: create partnerships with private enterprise. That's exactly what's happening in Ottawa-Carleton.

I have experts with me this morning, Mr Chair, if you have any questions, if members of the committee have any questions. On my left, there's Gerry Bellomo, director of property law and a famous name in Ottawa-Carleton; Pierre Grandmaître, director of planning and project development branch. Any questions, Mr Chair?

**The Chair:** Before we do that, I understand there is an interested party, Audrey Voice. Audrey, could you come up to the mike and join us. As well, there was a letter I received, which should have been circulated this morning, from a Diane Mauldin. I bring those letters to the committee's attention. It seems that Ms Mauldin is also an objector.

**Mr Sutherland:** Don't we have another one, the Federation of Citizens Association of Ottawa-Carleton?

**The Chair:** That was included with your bill as distributed, but the clerk informed me that the letter which I received from Ms Mauldin was not included in your package and was circulated this morning. Ms Voice.

**Ms Audrey Voice:** I'll just take a minute to gather up my documents. I do have some documents to distribute to members of the committee as well.

**The Chair:** In the meantime, if we presume that will take a couple of minutes, are there questions of the solicitor. Mr Dadamo.

**Mr George Dadamo (Windsor-Sandwich):** Thank you very much for being here today. I just want briefly to comment that last year I was the sponsor of a similar bill for the city of Windsor. At first sight we decided not to go ahead with this developer, but on looking at it the operative word seemed to be "partnership." If it came down to the city of Windsor having to build this multiplex, which we are going to build in the city of Windsor on the riverfront, it quickly becomes a \$38-million to \$40-million project. The city of Windsor simply couldn't do it, and the taxpayers in the area couldn't handle it. So we were in the position to say yes in that we have to work alongside developers in that aspect and build something that's good for trade, good for the city, good for the area and will hopefully bring some much-needed money to the city. So I would say I support.

**The Chair:** Thank you, Mr Dadamo. Go ahead, Ms Voice.

**Ms Voice:** Mr Chairman, I first became involved in this issue early in 1992, when I was approached by a neighbour of mine and a newly elected alderman, who had indicated that a number of people had come to him expressing some concerns about this project and asked me if

I would look through some of the documents. Over subsequent months a number of the community associations have become involved. There's been some publicity in the press. It's to the point where people stop me on the street and express their concerns about this. I think a lot of people have misgivings about this project.

Professional sport is something of a growth industry in Ottawa right now. The long-established Ottawa Roughriders have a new owner. Ottawa has a newly acquired NHL hockey franchise. Ottawa also is to have triple A baseball. I have no problem with the football or hockey businesses. The terms in which baseball is being brought to Ottawa are a travesty upon the people of Ottawa in particular, and to the province of Ontario as a whole.

Let's compare hockey and baseball. The Ottawa Senators are to build the Ottawa Palladium: 18,500 seats, a \$150-million hockey arena and entertainment complex, all of which they will pay for. They bought the land at market value. They've raised funds independently from private sources. They've sought no tax concessions. They are paying the full cost of necessary infrastructure, including road improvements and sewers. They're not asking for any public assistance.

Howard Darwin, through Triple A Management Inc, has purchased a baseball franchise. This agreement to purchase, as I understand it—and I haven't seen his agreement with Triple A Alliance—is conditional on a baseball stadium being constructed for the team to play in. Rather than a private facility, the 10,000-seat baseball stadium is to be constructed by the city, and much of the capital cost is to be provided by the city. Then the revenues, all the revenues, go to Howard Darwin, not just from baseball but from whatever else the stadium can be rented out for. He also gets the parking revenues. I'd refer you to the contract between the city of Ottawa and Howard Darwin, which I've provided you copies of. Initially, when the now-removed Mayor Durrell, now full-time sports promoter Durrell, approached Howard Darwin, he wasn't interested. However, the mayor said, "Have I got a deal for you." So Howard Darwin isn't stupid. He took him up on it.

My appearance here today is an attempt to give you, as members of the Ontario Legislature, as much perspective on this deal as possible. The pervasive argument to the public, as planning proceeded for this enterprise and a commitment was made to build a stadium, was that the city would have this nice new facility, it would benefit the local economy, and most important, it wouldn't cost the city, that's the local taxpayer, anything. It would be funded by the private sector. To this day city politicians and senior city staff are still selling that argument. But let's give it careful scrutiny.

The land the stadium is to be built on is city land. They didn't buy it. They obtained it in an exchange with the National Capital Commission. It was valued at \$10.7 million before rezoning. The city didn't have to write a cheque to use it as a baseball stadium site. Therefore they ignore that as part of the capital cost of the facility.

Then there are the construction costs of \$16.9 million. They received a \$2-million grant from the province so they don't count that as city taxpayers' money. They then are



going to sell \$4 million worth of surplus city land to go into the construction costs; selling off city assets isn't the same as extracting directly from the taxpayer so that doesn't count either. By the way, four years after the baseball franchise was first sought, with tenders about to be awarded, this land has not been sold, and the city is applying for an additional \$6.54 million in city debentures in addition to the \$4 million it has already borrowed. So on this facility that isn't supposed to cost the city anything it has already borrowed \$10.54 million. But they say they're going to get it back. Maybe. So don't count that either. They're going to raise \$5.6 million from advertising signs, pouring rights, concessions. Maybe.

Then there's \$2.7-million worth of infrastructure; roads, sewers and that stuff. The city and the region are sharing the costs of that, the city and regional taxpayers. You add all this up and you're over \$30 million. And by the Mayor Durrell school of accounting, by which most of the current city of Ottawa administration seems to be trained, this doesn't cost anything because we haven't imposed a specific mill rate to pay for this thing.

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I wish I could say that I think this is a bad deal only because it's bad policy, a poor investment or just plain stupid. But it's more than that. It's illegal. It's against the law of Ontario, the law which you the legislators of this province have passed. This contravenes not just one law but two, and maybe more.

Let me refer you to section 111 of the Ontario Municipal Act. It provides that a council shall not assist directly or indirectly a commercial enterprise through the granting of bonuses by, among other things, leasing or selling any property of the municipality at below fair market value. I have provided a copy of that section for you in the package which was distributed.

Section 3 of the Assessment Act provides that all real property in Ontario is liable to assessment and taxation, subject to the following exemption: property belonging to a municipality "but not when occupied by a tenant or a lessee who is liable to taxation." I've provided you with an extract from the Assessment Act as well.

I believe those sections are straightforward. That's the law, for everyone, for Joe's Confectionery, Loblaw's, or my home and yours. The law is supposed to be the same for everyone, no matter who you are, including Howard Darwin. However, the contract with the city is made conditional by section 38 of that contract, which provides that the agreement is only binding if there are no property taxes to be paid, taxes which have been estimated by the Ministry of Revenue at \$588,000 per year at 1980 market value. So that's probably a low estimate. I know Mr Grandmaitre a few minutes ago suggested some \$170,000. I do have a copy of a letter from the Ministry of Revenue giving that figure of \$588,000 per year at 1980 market value.

Let us look at what revenue the city does get each year. In lieu of rent, Triple A is going to pay off \$4 million worth of debentures. At today's prime, that could be \$300,000 or \$400,000 per year. The city is going to impose a 5% surcharge on tickets and parking. The city has projected ticket sales and parking to be \$2.4 million per year;

5% of that would be \$98,000. The city says it will cost \$174,000 per year to service that \$1.2-million infrastructure debt it's to go towards. So the 5% surcharge intended to pay off infrastructure debt quite possibly will not do so. Not only is the city only getting about 1% per annum on \$30-million worth of stadium; it gets no property tax revenue.

If ever there was a case of why buy when renting is so cheap, this is it. The benefits to Triple A are substantial and for the city this is going to be a money pit. It's all so unnecessary. Thirty million dollars is beyond the scale of most of our personal budgets. Let's make an analogy with something with fewer zeros, like \$300,000.

People like baseball and that's great. They also like nice houses to live in. Let's say the city builds you a house, a form of social housing. It's built on city land so they don't count the cost of that and they don't impose property taxes. The construction costs are \$169,000 rather than the \$16.9 million for a baseball stadium. They say you can have this \$300,000 house if you pay off \$40,000 worth of mortgage over the next 15 years. I think you'd say you got a bonus. Houses create construction jobs. New families who spend money will be good for the local economy, which is the economic spinoff argument one sometimes hears about baseball stadiums.

At this time, when we're in a recession, when governments at all levels are facing severe spending constraints, you're being asked to pass a special law for the benefit of Triple A Management Inc that says the law doesn't apply to this business. We should pass a special law, special concessions, just for this enterprise. The law of Ontario that applies to everyone else doesn't apply here. While little businesses all over Ontario are folding, baseball is big business, and you're being urged to give it a special deal.

Each triple A team is affiliated with a major league team. The major league teams are the same ones that make so much money that last year they were making the news because they could afford to pay their employees, also known as star players, around \$4 million per year, and average salaries for major league players are in the hundreds of thousands.

The same baseball leagues are being represented at municipal councils by obliging city bureaucrats who say they couldn't be a viable enterprise if they were asked to pay fair market value for a baseball stadium.

If you pass this, what are you going to say if the Ottawa Senators come to you and ask for tax concessions, exemptions from the law for them? After all, they're putting up a stadium, even with their own money. After all, hockey is going to be even bigger and better. Will other businesses, the Bay or Sears, be far behind?

Baseball is business. This is not just another municipal wave pool or amateur sports facility. It's for triple A baseball and whatever other commercial events it can be rented out for by Triple A Management Inc.

The contract provides that if there are dates left over it will be offered to the community on a not-for-profit basis. If a community group such as little league baseball uses it, the city pays costs, so this is something that is going to have very little community use other than as paying spectators. The schedule for community uses is initiated by Triple A,



not the city, and whatever dates are made available to the community, the city pays; it's not for free.

I think the wording of that contract, copies of which I've provided you, is quite clear, as are the relevant sections of the Assessment Act and the Municipal Act.

In addition, the provisions of the agreement which allow for the profits of the enterprise to be paid entirely to the contractor could be called into question as being legitimate affairs or purposes of a municipality pursuant to the Municipal Affairs Act.

In case you should think this is the opinion of an obstreperous woman from Ottawa who just doesn't like baseball, I point out this is the opinion of the director of legal services in the Ministry of Revenue, and I've provided you with the Ministry of Revenue opinion dated September 15, 1991. There are a couple of other letters as well which say somewhat the same thing and which I could also provide to the committee if that's your wish.

The school board and the region were asked to pass motions so that they would not be on record as opposing this special legislation. Well, as I understand how this works, the school board and the region simply tell the city how much money they need. It's not a percentage of each rateable property, so it doesn't affect their budget whether the city does or doesn't tax the baseball stadium. So, although there were some outspoken critics, the motions passed.

Historically the response to requests for tax-exempt status has been no, for good reason, because it is wrong to diminish the tax base by ad hoc decisions. That certainly seems a sensible principle.

Surely if it's appropriate for particular lands to be exempt from taxes, that decision should be made using uniform criteria on a province-wide basis, as is currently done in section 3 of the Assessment Act.

It's hard to knock baseball in a way because people like it. It's a popular thing, and there likely will be 10,000 people fill the stands for these baseball games. But should half a million other people who are interested in basic municipal services have to subsidize this? In order to get the triple A franchise they had to have a stadium. If not for triple A this stadium wouldn't be built, wouldn't be required; there'd be no need for it. Once it's up, the operator, Triple A, will try to make as much profit as possible, and it could be put to a variety of uses, but baseball is the reason this thing is coming into existence. To put together this deal, this stadium has to happen.

The baseball club said it's not prepared to make the investment to build its own stadium like the hockey club's doing. "We only want it if we get a 15-year deal, with option to renew for this stadium, ours for baseball and all the other uses we can put it to and no property taxes. Not just ticket revenues for all events year-round, the parking revenues, the concession revenues, but no property taxes either."

I pick up the Ottawa Citizen for Friday, June 4, 1992, and the manager's telling the reporter 10,000 tickets will be sold with another 1,000 sprawling on the grass seats available along the foul lines. Six dollars per average ticket for 10,000 to 11,000 seats for 71 games plus use of the stadium the rest of the year and they cannot afford to pay

for land, a stadium or property taxes so they want the public to do it for them.

Advertising and concessions revenue, independent of any broadcast revenues, for the Ottawa Senators hockey club in the 10,000-seat civic centre is estimated at \$7 million for the first year. I've taken these figures from the Ottawa Senators prospectus. I have no information as to how the price of hot dogs and beer at the two facilities will compare. One assumes it's somewhat similar.

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The city is selling Howard Darwin 15 years of concession rights for \$1.3 million. In the city's financial projections it's used the interest rate of 12%. On a \$30-million facility, plus the normal property taxes, the city should be expected to get a return of over \$4 million. It's going to be getting about one tenth of that.

Should the city of Ottawa and the Ontario Legislature go so far as to provide large sums of public money, even special laws, to make it happen? I think not.

If I could just make one comment, Mr Dadamo referred to the city of Windsor's facility. As I understand it, the city of Windsor was really quite lacking in sports facilities and made a deal where it provided tax-free status for the land. However, the \$25-million construction cost was provided entirely by the contractor, if I understand correctly.

**Mr Dadamo:** That's right.

**The Chair:** Thank you, Ms Voice. You've presented a very articulate and very well-reasoned argument. I believe we have a couple of people who want to make statements or ask questions, but first the parliamentary assistant to the Minister of Housing, Mr Mills?

**Mr Mills:** No, correction, Mr Chair, the parliamentary assistant to the Minister of Municipal Affairs.

**The Chair:** My apologies.

**Mr Mills:** Anyway, I just want to refer to some quotes with reference to the Municipal Act, and of course this bill overrides the provisions of that legislation. The precedent has already been set through Bill Pr99 in respect to the city of Windsor. A precedent has been set there.

There was some comment made, a reference to the Minister of Revenue. I have in my possession a letter here. It deals with a lot of things, but I'm just going to read the pertinent facts. This is directed to the Minister of Municipal Affairs, the Honourable David Cooke.

"As you are aware, it has always been our practice to oppose the granting of property tax exemptions by private bills because it undermines the principles of the Assessment Act. This continues to be our practice. However, there are novel circumstances present, created by the joint partnership between the municipal body and a private interest, which allows an exception to be made to the general rule. In particular, the strong commitment and support of the city of Ottawa for a property tax exemption must be recognized. In addition, some tax revenue will accrue from this facility, since the operator will be liable for business taxes.

"In conclusion, my ministry has no objection to the enactment of the proposed private bill, the City of Ottawa Act, 1991."



The letter is signed, "Shelley Wark-Martyn, Minister," for your and the committee's information.

**Mr Grandmaître:** Mr Chair, can I set the record straight? I think Ms Voice brought up a very good point, questioning the \$174,720. I was referring to the business tax, Ms Voice, not the total tax bill. It was business taxes only that will be paid by the 10th.

**Mr Gerald Bellomo:** I was just going to very briefly respond. Without giving a sentence-by-sentence response, I think there are some facts the committee should know in response to the brief.

**The Chair:** Perhaps those facts could be elicited from the committee's questions. Mr Grandmaître has already clarified one point, but I think if the committee has questions, perhaps they could ask them.

**Mr Sutherland:** My question is to the city, and it's a couple of points brought up by Ms Voice's presentation, which I think certainly proves that she has indeed done her homework quite well to come up with this presentation and present the information.

Did the city, in its negotiations, make any attempt to get a percentage of concession sales and of advertising, particularly in the park? I bring this up from my understanding of the agreement with the double A franchise in London, which was working in a facility owned by the public utilities commission there. As part of the agreement there to upgrade the facility, the PUC, in conjunction with the city, decided it would put a surtax on the ticket sales. But I believe they also get a percentage of the concessions, which was always considered one of the more lucrative areas, and I believe they also get a percentage of the signage in the outfield, because those signs stay out there all year round. Did the city look at concessions and advertising as part of its involvement in the deal?

**Mr Pierre Grandmaître:** Let me answer you in this way: We did. We looked at all the proprietary rights—soft drink rights, scoreboard and so on. What was failed to be presented is how this project is funded. It's a \$16.9-million project, of which the city is debenturing \$4 million, which will be repaid by the franchise owner, principal and interest over a 15-year period. There is a \$4-million contribution from land sales which the city is in fact front-ending. There is a \$2-million contribution from the province of Ontario, and there is \$6.8 million that we culled from the private sector.

Those dollars are in effect concession rights which have been sold to the baseball franchise owner for \$1.3 million. We've sold scoreboard, we've sold sweets, we've sold advertising zones, a number of those packages. We could have financed this project with tax dollars and turned around and charged a percentage of revenues to be applied against our cost. What in effect we've done is we've forgone those revenues for the duration of the agreement for the upfront dollars, because what's happening is that the city is selling those proprietary rights and applying those revenues to the capital cost of the building.

**The Chair:** Any further questions?

**Mr Solà:** I'd like to hear from the city, to hear its explanation. You wanted to fill in—

**Mr Bellomo:** Okay, I'll be very brief. First of all, the ironic thing is that Ms Mauldin is not even a resident of Ottawa. She's a resident of our neighbouring municipality of Gloucester. You should be aware of that.

Second, we had a five-day hearing before the Ontario Municipal Board on zoning and official plan matters, and Ms Voice attended and had full opportunity to make representations before the board. Ms Voice indicated that this is illegal. Well, every request for special legislation before you is here because there is some concern with the legislation. That's why we're here.

The only other thing I would mention is that, yes, there are objectors. Clearly this is a major project; one would expect some objectors to a major project. But there are already 7,000 season ticket holders who have purchased tickets for this stadium. We have the local community association, the Overbrook Community Centre, in which the stadium is being built, on side, so we have the support of the majority of residents in Ottawa.

**Mr Hansen:** Maybe Ms Voice could comment on the remarks made.

**Ms Voice:** I would be very happy to reply. Thank you for the opportunity. The gentleman, and I'm not sure of his name—

**Mr P. Grandmaître:** Pierre Grandmaître.

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**Ms Voice:** He pointed out some of the ways the capital costs are going to be covered. He only pointed out the \$4 million in debentures. In fact the city has made three applications to the Ontario Municipal Board for debentures, first \$0.8 million, then they came back for another \$3.2 million, now they've gone back for another \$6.54 million. The \$4 million in land sales is city land; that's not a corporate contribution. That \$4 million in land has not been sold.

On the private sector financing and just how much of a shortfall there is at the present time, the only contracts I've seen were blank contracts. There may indeed be some fully executed contracts now.

About the Ontario Municipal Board hearing, that was a rather frustrating exercise in that the board ruled that its jurisdiction was confined solely to official plan and zoning.

The city of Ottawa did a very funny thing with its site plan. The city of Ottawa has delegated the authority to deal with site plans to its planning committee. The city's own planning committee, in looking at this facility the city was building, rejected the site plan for its own facility.

Then they did a rather curious thing. They had a special emergency meeting of council where, in my opinion, they did something that was illegal under the Planning Act in terms of the way they revoked the authority delegated to that planning committee. Then they increased the bicycle rack at this stadium from 30 parking spaces to 100 parking spaces. They said then that made this \$16.9-million stadium, which was previously unacceptable in terms of its site plan, now acceptable.

Another thing, the bonusing argument: I very much tried to get this before the board. The board ruled that it had to stick to official plan and zoning. It would be very dangerous to try and put words in the mouth of Ontario

Municipal Board members. There seemed to be some implication, "You might have a good argument, but unfortunately at this hearing we can't hear about it." Although I did go to the hearing and I tried mightily to get my case before the board, I was not able to. Therefore I very much dispute the argument that I had a chance to put my evidence before the board. In fact he was the one who stood up and argued to the board that I should not be allowed to give my evidence.

I don't know whether I should raise these things. There are other things that concern me about the legality of this thing, although it's perhaps only incidental to this private bill. The section of the Municipal Act that provides for the type of undertakings the municipality may get into lists a number of things that are public things. I think this essentially becomes a private facility under the terms of the contract which the city and Triple A Management Inc have.

Under the Ontario Municipal Board Act there are certain procedures required with respect to debentures. You specifically have to have a bylaw authorizing this. The city of Ottawa bylaw isn't very specific. Those are things that will be taken up with the Ontario Municipal Board, and that perhaps is a better forum than this committee, but I

would point out to you that there are a lot of concerns about this.

**The Chair:** Would you like to take a moment or do you feel finished?

**Ms Voice:** Maybe just one more comment as far as there is a precedent is concerned. The city of Windsor bill, as I've indicated, is a somewhat different situation, if that's a precedent. I think it becomes a somewhat dangerous precedent to start creating ad hoc decisions about who this section of the Assessment Act or the Municipal Act does or doesn't apply to.

**The Chair:** Any further comments or questions? Seeing none, are we ready for a vote? We are ready for a vote.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, Ms Voice, gentlemen.

We will be meeting next week. There are some four or five private bills to deal with at that time. We are adjourned.

The committee adjourned at 1246.











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## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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- \*Dadamo, George (Windsor-Sandwich ND)
- \*Eddy, Ron (Brant-Haldimand L)
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- \*Mills, Gordon (Durham East/-Est ND)
- \*Ruprecht, Tony (Parkdale L)
- \*Sola, John (Mississauga East/-Est L)
- \*Sutherland, Kimble (Oxford ND)
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- \*Fletcher, Derek (Guelph ND) for Mrs MacKinnon

\*In attendance / présents

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Hopkins, Laura, legislative counsel



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Second session, 35th Parliament

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 17 June 1992

# Journal des débats (Hansard)

Mercredi 17 juin 1992

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets de loi  
privés



Chair: Drummond White  
Clerk: Todd Decker

Président : Drummond White  
Greffier : Todd Decker

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 17 June 1992

The committee met at 1002 in committee room 1.

### DUTCH CANADIAN ALLIANCE OF ONTARIO, INC. ACT, 1992

Consideration of Bill Pr39, An Act to revive The Dutch Canadian Alliance of Ontario, Inc.

**The Chair (Mr Drummond White):** I'd like to call this meeting of the standing committee on regulations and private bills to order. The first item on our agenda is Bill Pr39, An Act to revive The Dutch Canadian Alliance of Ontario, Inc. Mr Jordan will be sponsoring the bill on behalf of Mr Harnick.

**Mr Leo Jordan (Lanark-Renfrew):** It's my pleasure to present Bill Pr39 on behalf of Charles Harnick, the member for Willowdale, who was unable to attend this morning. It's An Act to revive The Dutch Canadian Alliance of Ontario, Inc. I have on my left Mr Willem Meyer, the legal counsel, who's prepared to explain or answer any questions.

**Mr Willem Meyer:** Good morning, Mr Chairman. I wish to thank the member for introducing me. We also wish to thank the honourable member for Willowdale for sponsoring this bill.

The necessity for the bill came about by a bureaucratic mixup where a notice of dissolution was alleged never to have been received by the board of directors of the Canadian Alliance. The Canadian Alliance was originally constituted as a group of Dutch Canadian credit unions in Ontario which banded together to pursue charitable objects within the spirit of the community movement, defined by the needs and problems experienced within the Dutch Canadian community at the time. The corporation was unaware that its charter had been dissolved and carried on merrily for the past five years. It has a substantial amount of funds on hand and of course cannot carry on in its present circumstances. This is the background for the bill.

**The Chair:** Are there any objectors or interested parties on this bill? Are there any questions of the sponsor or the applicant? Mr Parliamentary Assistant?

**Mr Gordon Mills (Durham East):** No objections, Mr Chair.

**The Chair:** Are we ready then for a vote?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, Mr Meyer.

**Mr Meyer:** Thank you.

### ARNPRIOR-NEPEAN RAILWAY COMPANY INC. ACT, 1992

Consideration of Bill Pr47, An Act respecting the Arnprior-Nepean Railway Company Inc.

**The Chair:** Mr Jordan, if you could introduce your friends on item 4 on our agenda, which is also Mr Jordan's bill.

**Mr Jordan:** It's my pleasure also this morning, on behalf of BASF Arnprior, to present Bill Pr47, An Act respecting the Arnprior-Nepean Railway Company Inc. I have with me this morning the legal counsel for the firm, Gerald Hollyer, who is prepared to further explain the bill and answer any questions.

**Mr Gerald Hollyer:** I'd like to thank Mr Jordan for sponsoring this bill and the Chair of the committee for dealing with this matter this morning.

Briefly put, a line of railway from Nepean to Arnprior where BASF's plant is located is being abandoned by the CNR at the end of July this year. In order to continue the freight service to that plant, which is essential to its operation, this company has been formed simply to bring it within the purview of the Ontario Railways Act and continue that freight service solely for the use of that plant.

It is not to be a public railway or a common carrier. The CNR will, under contract, continue to operate and bring the tank cars that are needed for that plant and to bring the product manufactured at that plant out again. It is simply to permit a continuation of the service to that plant that has gone on for many, many years. I would be glad to answer any question which any of the members of the committee have.

**The Chair:** Any questions on this? There is a letter from an interested party, which has been circulated. There are no objectors present, though I would ask the clerk to deal with the substance of the letter as the photocopy is somewhat difficult to read.

**Clerk of the Committee (Mr Todd Decker):** The copy of the letter is inserted in your copy of the bill before you. From my reading of the letter, I believe the person who's written the letter has misunderstood the purpose of the application and is referring to a common-carrier-type application, not realizing that this would be a private railway used by a private company in the area.

**Mr Mills:** No comments.

**The Chair:** Thank you. That's fine. Are we then ready to vote on this bill?

Sections 1 to 10, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, gentlemen.



**Mr Jordan:** Thank you very much, Mr Chairman and members of the committee. We appreciate it.

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CITY OF OTTAWA ACT, 1992

Consideration of Bill Pr34, An Act respecting the City of Ottawa.

**The Chair:** The next item of business will be Bill Pr34, An Act respecting the City of Ottawa. Mr Chiarelli.

**Mr Robert Chiarelli (Ottawa West):** Mr Chairman, I'm pleased to sponsor Bill Pr34, An Act respecting the City of Ottawa, and I have with me Edythe Dronshek on my immediate right, who is a solicitor with the city of Ottawa, and Tom Carling, who's an administrator at the city of Ottawa. I'd ask Edythe to indicate the nature of the bill. There will be a number of amendments moved. Perhaps Edythe, very briefly, you can indicate what those amendments are.

**Mrs Edythe Dronshek:** Okay, fine. The purpose of Bill Pr34 is to authorize the city of Ottawa to pass bylaws respecting grass, weeds, garbage and debris on portions of highways not used for motor vehicle traffic, being the boulevards.

The corporation of the city of Ottawa's care of streets bylaw has provisions permitting owners or occupiers of land fronting or abutting on a street to improve the boulevard as well as requiring these persons to keep the grass thereon properly cut and watered. Most city boulevards are well maintained by the adjacent property owner. They water, feed, fertilize and cut the grass on the boulevard as part of their regular maintenance of their properties. They treat the boulevard as an extension of their properties, thereby ensuring that the overall property is visually pleasing. However, there are owners or occupants who do not maintain the boulevard, particularly the outside boulevard between the roadway and the sidewalk adjacent to their private property. They do not cut the boulevard grass and eventually it begins to look unsightly in comparison to surrounding properties.

This results in complaints and requests for action being lodged with the corporation. The corporation does not have the resources or funds to provide a city-wide boulevard grass cutting service. Furthermore, the streets bylaw requires property owners and occupants to maintain the boulevards adjacent to their properties. Therefore the corporation's normal practice with respect to boulevards that are not maintained is to provide them with a notice, advising of the bylaw requirements and requesting they comply with the bylaw.

In most cases the owner-occupant will comply with the corporation's request. However, in the cases where they do not comply, it is the corporation's practice to cut the grass in accordance with quality standards for grass cutting on city-owned property, which will result in one or two cuttings per season. It is hoped that prior to the corporation having to cut the boulevard the generally unsightly condition will be apparent and the owner or occupant will take action.

While the streets bylaw requires the property owners and occupants to maintain the boulevard adjacent to their property, there is currently no enabling legislation to support this provision. Therefore if the adjacent property owner-occupant does not cut the grass on the boulevard the corporation does not pursue the matter beyond providing a notice of the bylaw requirement and the request for action.

This request for legislation is necessary because the Municipal Act clearly does not empower municipalities to require owners or occupants to be responsible for the maintenance of boulevards. The act comes close but authorizes bylaws which may "permit" the owners or occupants to maintain the boulevards rather than require them to do so.

During the 1989 summer season the corporation spent \$100,000 on grass cutting on the boulevards which the adjacent property owners were not maintaining. This involved approximately two cuttings per year. These two cuttings were not sufficient to keep the adjacent boulevards in as clean and slightly a condition as other properties in the area. In 1990 and 1991 the budget for the boulevard grass cutting was reduced to \$40,000. In 1992 it was again established at \$40,000. This allows for a onetime grass cutting of most of the boulevards which the adjacent owners or occupants are not cutting.

While the corporation has reduced its costs in this area, the number of locations being cut and the level of grass maintenance has been reduced. With a onetime grass cutting the grass is being allowed to grow taller before it is cut. This in turn leads to more complaints regarding grass cutting. The number of complaints with respect to grass cutting has increased by 58%, from 205 in 1989 to 324 in 1991. The corporation also issues approximately 200 to 300 notices to owners or occupants requesting that they maintain the boulevard adjacent to their properties.

If the grass is cut regularly then there is no need to require that the grass cuttings be removed. The problem occurs when the grass is not regularly maintained and the grass reaches a height that when it is cut, the clippings must be removed to prevent the grass from browning or dying.

It is also difficult to cut the grass if there is a great quantity of garbage or debris on the grass. Once the grass reaches a certain height, these objects cannot be seen and may damage the lawnmowing equipment.

Over the past few years a number of municipalities have obtained special legislation from the province which gives them the authority to pass bylaws requiring property owners or occupants to maintain the boulevards adjacent to their properties to a minimum standard. The corporation is desirous of obtaining similar legislation, which will permit it to require owners to be responsible for grass cutting and general cleanliness of the boulevards which directly about their property.

It is also considered essential that where the owner fails to comply with the notice the corporation has the ability to recover the expenses for doing the work or arranging for the work to be done, including an administrative fee and a procedure for requesting it.



The motions that are going to be—

**The Chair:** They're not tabled as yet. I am sure Mr Hansen or Mr Sutherland will want to move them, though.

**Mrs Dronshek:** Okay, fine.

**The Chair:** Shall we put the amendments on the table first?

**Mr Kimble Sutherland (Oxford):** Okay. Sure, we can put them on. I have a couple of motions here.

**The Chair:** Mr Sutherland moves that subsection 1(1) of the bill be amended by adding the following clause:

"(d.1) exempting one or more classes of owners from doing the things described in clauses (b) and (c)."

Mr Sutherland further moves that section 2 of the bill be struck out and the following substituted:

"Default

"2. If an owner of land fails to comply with a bylaw passed under clause 1(b) or (c) within the time specified in the notice given under subsection 1(2), the corporation may do the work or arrange for the work to be done. The corporation may recover all expenses, including administrative fees, from the owner by action or it may collect them in like manner as municipal taxes."

Mr Sutherland further moves that section 3 of the bill be amended by striking out "section" in the first line and substituting "act."

Motion agreed to.

**Mr Ron Hansen (Lincoln):** One question: In here, it says "highways abutting their land." I believe we've had this bill come up quite a few times in the city of Toronto and I thought we had the word "roadway." Is it clear enough? I have to ask the legislative counsel on this particular issue: Does that cover subdivisions in all roads within Ottawa, or have I got the bill incorrect in my mind?

**Ms Laura Hopkins:** I'm just going to take a minute and confer with the lawyer from the Ministry of Municipal Affairs.

**Mrs Dronshek:** If I may be of assistance, it does not apply to regional roads within the city of Ottawa, because they are under the jurisdiction of the regional municipality, or to provincial highways.

**Mr Hansen:** What about subdivisions?

**Mrs Dronshek:** It includes too any highways that are under the city's jurisdiction.

**Mr Hansen:** What kind of bylaw do you have in a subdivision now? There's a subdivision with a house unsold and on that particular boulevard the grass isn't cut. Now what would happen in that instance? Do you have any other rules within a subdivision?

**Mrs Dronshek:** No. It would be the registered owner of the property who would be required to maintain the boulevard adjacent to his property.

**Mr Hansen:** But this is only for highways.

**Mrs Dronshek:** It's a legal term. It's for any streets that the city has assumed. If the city has not assumed any of the roads within the subdivision, at this point then there would be no bylaw applying to it. Once the city assumes

the streets, then they become part of its street system and it would be covered by the bylaw.

**Mr Hansen:** Okay. I'm just confused on the word "highway" instead of "roadway."

**Mr Chiarelli:** If I may, the legal definition of "highway" includes a subdivision road.

**The Chair:** Do we have a response for Mr Hansen?

**Ms Hopkins:** The consensus among all of the folks in the room is that "highway" is the broadest term and that it covers all the roads that you're concerned about.

1020

**The Chair:** Are there other interested parties? Okay, we have the same problem again that we had with the earlier bill. There was a notice or a letter sent in that has been included in your packet, but it is not legible as photocopied.

**Clerk of the Committee:** The letter you have that is difficult to read is from an individual in the city of Ottawa. His concern, as far as I can tell, seems to be with a neighbour or with neighbours who tend to shovel snow and other debris on his property during the winter months. I understand he has had correspondence with the city of Ottawa on this.

**Mrs Dronshek:** Yes. In fact, for this coming snow season the city is going to set up a more stringent enforcement program to stop property owners from having their snowplow operators take the snow from their private roads and put it on the city boulevards. This is what the individual is complaining about: that they are pushing the snow off their properties and off their side of the street over on to his side. The city will commence a stringent enforcement program with our licensing inspectors, who have the ability to set fine notices for these offences.

**The Chair:** Are we ready for a vote?

Sections 1 to 3, inclusive, as amended, agreed to.

Sections 4 to 5, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

#### CITY OF CORNWALL ACT, 1992

Consideration of Bill Pr29, An Act respecting the City of Cornwall.

**Mr John C. Cleary (Cornwall):** I will introduce our delegation. With me is Joel Bousfield, and next to him are Ernie Jackson, vice-president of Cornwall Electric, and Brian Bucknall, another attorney.

I guess the purpose of this bill is to enable the city of Cornwall to establish an electric commission without the assent of the electors. At present, electric power is provided by private corporation and all the shares of it are owned by the city. Upon the creation of this commission, the private corporation would be dissolved and all the assets and liabilities would be transferred to the commission.

**Mr Joel Bousfield:** The purpose of the City of Cornwall Act, 1992, is to enable the city of Cornwall to establish a hydro-electric commission without adhering to all the requirements of the Public Utilities Act. The commission,



when established, will take over the operations of the Cornwall Street Railway Light and Power Company Limited.

Since 1902 hydro-electric power has been provided within the city by the company, now operating as Cornwall Electric. All the shares of the company were acquired by the city in 1977. The company, which has adopted the accounting practices of a municipal utility, generates sufficient funds to operate the company and meet its debt obligations. The company pays to the city an annual amount equal to the debt payments incurred by the city on behalf of the company.

The company does not generate any electrical power. It distributes power which it obtains from sources other than Ontario Hydro under various agreements, some of which will expire commencing October 31, 1994.

In 1986 the company initiated discussions with Ontario Hydro with the intention of securing from Ontario Hydro a long-term source of power after 1994. To take a supply of power from Ontario Hydro the company must be connected to Ontario Hydro's transmission grid. It is estimated that it will take three to five years to build the necessary connection from Ontario Hydro to the company's grid.

As a private corporation the company would be asked to bear the cost of this connection. The cost of the connection, as estimated by Ontario Hydro, would be between \$13 million and \$15 million. Alternatively, if the company is replaced by the commission, Ontario Hydro will provide power to the city in accordance with the provisions of the Power Corporation Act. Upon the establishment of the commission the city will become part of a province-wide wholesale costing pool for municipal electrical utilities. The pool would absorb the initial connection costs. The commission would agree that all future purchases of hydro-electric power would be from Ontario Hydro.

In order to establish the relationship outlined above with Ontario Hydro, the city wishes to have the company replaced by the commission. To achieve such replacement with the least amount of disruption to the existing operations of the company, arrangements are proposed in the bill which are an exception to the Public Utilities Act. These arrangements are as follows:

First, the act enables the city to establish the commission and to enter into a power supply contract with Ontario Hydro without the assent of the electors. The assent of the electors is not required because the city, which has owned the company, will not be assuming any additional debts or liabilities as a result of establishing the commission.

Second, under the act the commission is called the Cornwall Electric Commission in order to preserve an existing business name developed at considerable cost to the company.

Third, all assets and liabilities of the company will become assets and liabilities of the commission, and the company will be dissolved.

Fourth, the members of the commission will consist of the mayor of the city and four other members who, rather than being elected, will be appointed by city council for a term established by the city, subject to the provisions of the act. In its capacity as owner of the company, city coun-

cil appointed the directors of the company and wishes to retain the authority to appoint the commissioners once the commission is established.

Finally, the company also supplies power to some areas of the townships of Charlottenburgh and Cornwall. The legislation authorizes the commission to continue to supply power to those areas of these townships which were serviced by the company on the day its letters patent are cancelled. The legislation also authorizes the entering into or renewal of any contracts with the commission for the supply of power in these townships.

Notice of the application for this legislation has been given to the townships and they have approved the application.

Any questions?

**Mr Sutherland:** I don't think generally I have any problems. I guess I just want to know why you chose to have the people who are going to oversee the new commission appointed rather than elected. It says in here they are going to be appointed by council rather than being elected.

**Mr Bousfield:** As I said earlier, the city wishes to retain control, to retain the authority to appoint the commissioners, because it has been the tradition with Cornwall Electric that the city appointed all directors of the company.

**Mr Sutherland:** I understand that, but did we not receive a copy of a petition here that there is some support in the city to have the commission overseen by elected people? I just want to know what consideration city council gave to this petition and the idea that there seems to be some change in attitude within the city that maybe they should be elected rather than just appointed.

**Mr Bousfield:** I guess if the concern has to do with democratic control, if it's a democratic concern that you have, the commissioners will be appointed by city council, which is an elected body.

**Mr Sutherland:** Has the city developed any criteria for the appointment process? Will they advertise locally for those people who do want to be appointed, or will people who want to just submit their names, without going out and seeking public opinion?

**The Chair:** Might I ask the parliamentary assistant? I believe there has been some investigation on this issue.

**Mr Mills:** Thank you, Mr Chair. I think it would be beneficial to all members of the committee to hear the position of the Ministry of Municipal Affairs on this, so I'll go over a few things.

I think we have to consider, for the purpose of accountability in this matter, that there should exist one decision-making body within a municipal council. Municipal councils consist of elected officials who are responsible for overseeing the provision of complex urban services—for example, public works, roads, sewers, buildings etc.

In view of these responsibilities and duties, it is appropriate for municipal councils to have direction of hydro-electric services to ensure locational priorities are in step with other infrastructure priorities. For your information, at the moment there are 32 municipal hydro-electric commissions in Ontario with entirely appointed commissioners.



There are 27 commissions with entirely appointed council members as commissions, and these commissions serve approximately 50% of all municipal hydro customers in Ontario.

Another thing that I should bring before you to consider is that electric commissions create additional financial responsibilities for the municipality, so the position of the Ministry of Municipal Affairs is for the council to appoint people to this commission.

1030

**The Chair:** Thank you. Further questions?

**Mr John Sola (Mississauga East):** Yes, I'd like to ask a question of the parliamentary assistant. First of all, does the ministry oppose this application?

**Mr Mills:** No.

**Mr Sola:** Okay. I've got one other question. What is really the purpose of this? If it's a wholly-owned company by the city, do you just want to come in line with the other municipalities in Ontario? I know the explanatory note gives a purpose, but you don't really explain why you're going from a private company wholly owned by the city to a commission.

**Mr Bousfield:** The reason has to do with being able to take power from Ontario Hydro. In order to do that in the most efficient manner, they would have to create the hydro-electric commission. I think I explained that earlier.

**Mr Sola:** Okay. I'd just like to add my own little two cents' worth, I guess, to this letter or petition that we received.

What I see is, they seem to be expressing some discontent with the fact that the city of Cornwall may continue to appoint politicians to this commission, and I'm wondering what difference there will be if you elect commissioners. Don't they, through the election process, become politicians? So one way or the other, you're going to wind up with politicians on this commission.

**Mr Jordan:** Thank you, people, for your presentation on this change for Cornwall.

I would like a little information on the connecting link between your private company and Ontario Hydro. Did I understand you rightly that there's a cost of approximately \$13 million to get connected to Ontario Hydro?

**Mr Ernie Jackson:** Presently Cornwall Electric is not connected to the Ontario Hydro grid in any way. We obtain our power from sources outside of Ontario. In order to

receive power and get on to the Ontario Hydro grid, a transmission line would have to be built to the Ontario Hydro grid at a cost between \$13.5 million and \$15 million.

If we're a private company, even though we're owned by the city of Cornwall, Ontario Hydro interprets that as us not being a municipal utility, and therefore Cornwall would have to pay the \$13.5 million. If, however, we become a commission, then Ontario Hydro pays the cost of the transmission line.

**Mr Jordan:** Has Ontario Hydro agreed to this \$13-million to \$15-million connection?

**Mr Jackson:** If we become a hydro-electric commission they're obligated to pay it.

**Mr Jordan:** You also mentioned that after that you would be obliged to accept power only from Ontario Hydro.

**Mr Jackson:** Yes.

**Mr Jordan:** So if I had an industry in Cornwall where I could have cogeneration or non-utility generation, you as a utility would not be in a position to accept my generation. It would have to come through Ontario Hydro.

**Mr Jackson:** Yes, that is correct.

**Mr Jordan:** And you would all become Ontario Hydro customers, or customers of the commission of Cornwall?

**Mr Jackson:** What would happen is that Cornwall Electric would become a customer of Ontario Hydro and the residents of Cornwall would become customers of Cornwall Electric, as they are now. This means that our customers would then be entitled to programs under the Ontario Hydro umbrella, which they are not entitled to at the present time.

**Mr Jordan:** Thank you very much.

Sections 1 to 9, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, gentlemen.

**Mr Cleary:** On behalf of the delegation, I would like to thank the committee.

**The Chair:** We will have a meeting next week. There are some five bills, possibly more, next week to deal with.

We are adjourned.

The committee adjourned at 1036.

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- \*In attendance / présents

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Hopkins, Laura, legislative counsel





## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Wednesday 24 June 1992

Standing committee on  
regulations and private bills

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Mercredi 24 juin 1992

Comité permanent des  
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Chair: Drummond White  
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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 24 June 1992

The committee met at 1001 in committee room 1.

**The Chair (Mr Drummond White):** I call this meeting of the standing committee on regulations and private bills to order. On your agenda you'll notice Mr Harris has two bills up first. With Mr Harris's indulgence, as I am Chair and assisting with the third bill on the agenda, I wonder if he would mind if we dealt with that one first and let Mr Hansen chair. I assure you, Mr Harris, it probably shouldn't take too much time.

### SHER-BASSIN GROUP INC. ACT, 1992

Consideration of Bill Pr30, An Act to revive The Sher-Bassin Group Inc.

**The Acting Chair (Mr Ron Hansen):** Good morning. The first bill we're going to deal with is Bill Pr30, An Act to revive The Sher-Bassin Group Inc. The sponsor is Drummond White. Would you introduce the solicitor, please.

**Mr Drummond White (Durham Centre):** I will indeed. Thank you very much, Mr Chair, and thank you, committee members, for the indulgence.

Bill Pr30 is An Act to revive The Sher-Bassin Group Inc. If I might make a couple of points beforehand, Mr Sherwood Bassin is quite a noted celebrity in our area. This bill, I understand, has gone through all proper procedures. Mr Bassin unfortunately is not with us as he's in Montreal, but acting on his behalf is Mr Patrick Johnston, his solicitor. Could I ask you, Mr Johnston, to introduce the bill and the intent of it?

**Mr Patrick Johnston:** Thank you. I want to thank Mr Harris for stepping aside to let the Soo Greyhounds take precedence over the North Bay Centennials.

The intent of the act is to revive the Sher-Bassin Group Inc. As a bit of background, Sher-Bassin Group Inc is a solely owned corporation by Mr Bassin. In 1986 there was an order for its dissolution under section 240 of the Business Corporations Act. Since the five years had passed, instead of going through the normal articles of revival, we were obliged to proceed with the private member's bill. The purpose, obviously, is to revive it because it is an ongoing, viable corporation presently carrying on business in the province of Ontario.

**The Acting Chair:** Questions from committee members? Are you ready for the vote?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

### CITY OF NORTH BAY ACT, 1992

Consideration of Bill Pr17, An Act respecting the City of North Bay.

**The Chair:** If we could now resume our regular order on the agenda, Mr Michael Harris, MPP, North Bay, is

presenting Bill Pr17, An Act respecting the City of North Bay.

**Mr Michael D. Harris (Nipissing):** Thank you very much, Mr Chairman. Here from the city of North Bay is the city solicitor, Michael Burke, who can answer any questions if there are any specifics.

Bill Pr17 is a bill to increase the number of board members, particularly lay members, on the board of the Civic Hospital of North Bay. The Civic Hospital board's been through an extensive strategic planning exercise. As you know, all hospitals are re-examining their roles and place in the community and in the health care scheme of things these days.

They found they had the lowest number of board members of any of the comparable hospitals around them. They also found they do not have the resources for a lot of paid people on the committees examining new legislation and new directions. These functions are performed primarily by board members. They're all volunteers; they're paid nothing. This bill will increase the number of lay members from six to 12, which I believe will bring it in line with the number of board members on hospitals of similar size in communities in the area.

I believe it's pretty straightforward. That's the purpose of the bill and what it does.

**The Chair:** Thank you, Mr Harris. Any comments, Mr Burke?

**Mr Michael Burke:** No, I can't seem to add anything to that.

**The Chair:** Thank you. Questions?

**Mr Tony Ruprecht (Parkdale):** Mr Chairman, I see that Mr Harris is here this morning supporting this and consequently we've got no questions whatsoever on the whole thing.

**Mr Harris:** That's the first time I've ever heard that, Tony.

**The Chair:** Mr Ruprecht is usually so genial. Mr Parliamentary Assistant?

**Mr Gordon Mills (Durham East):** No questions.

**The Chair:** No questions and there are no objectors present. Are we then ready for a vote on the bill?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, Mr Harris and Mr Burke.

### CITY OF NORTH BAY AND TOWNSHIP OF EAST FERRIS ACT, 1992

Consideration of Bill Pr32, An Act respecting the City of North Bay and Township of East Ferris.



**The Chair:** We now are on the second item on our agenda, which coincidentally is Bill Pr32 sponsored by Mr Harris, An Act respecting the City of North Bay and Township of East Ferris.

**Mr Harris:** Thank you very much. Bill Pr32 deals with septic tanks primarily. Trout Lake, which is a source of the water supply for the city of North Bay, is bounded by the township of East Ferris and North Bay. Some of the lake falls within the urban service area and some falls beyond the urban service area of both communities.

Mr Burke, city solicitor for the city of North Bay, is representing both the city and the township of East Ferris. Both would like bylaw amendments that will allow both municipalities to take a more active role in ensuring that the septic systems are not damaging the water quality of Trout Lake. I know there is an amendment that the Ministry of the Environment believes will make the bill more acceptable to it, and my understanding is that that amendment is acceptable to the city of North Bay.

What the city is really doing is clarifying a few things that have given it concern. It will allow them with this bylaw to insist that septic tanks be pumped out on a regular basis. If that's not complied with, it will allow the municipality to see that it's done and then to levy the fees back on that.

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The second aspect of it is to allow the municipality to impose a reasonable fee on the amount of sewage that is now going through the sewage plant owned and operated by the city of North Bay from the companies that are pumping out septic tanks and then putting this sewage through the municipal sewage system.

I think it's supported by all parties in North Bay. It's a very worthwhile goal and something that is certainly supported by the citizens of both the township of East Ferris and North Bay. If there's anything else the city solicitor wishes to add, I would turn it over to him to deal with the amendment as well.

**Mr Burke:** Perhaps by way of additional background I can tell you that the city has exercised fairly aggressive planning controls on Trout Lake since 1979 when it initiated a site plan control area on 150 feet of a setback of the whole lake. Fairly extensive engineering studies were done from 1986 to 1990. This was one of the steps recommended by those consulting studies. In preparing the bill and the draft bylaw that has been prepared to implement it, we have consulted widely with the health unit, the local Ministry of the Environment office, the Trout Lake Conservation Association and the North Bay-Mattawa Conservation Authority, and it has been supported by all those groups.

**The Chair:** Thank you. Any questions from committee members?

**Mr Mills:** Yes, Mr Chair. We have counsel from the Ministry of the Environment here who is not opposed to this and who would only make comments if asked for by members of the committee.

**The Chair:** Thank you, Mr Mills. Are there any amendments to this bill?

Mr Hansen moves that clauses 1(1)(a), (b) and (c) of the bill be struck out and the following substituted:

"(a) requiring the pumping out of septic tanks of private sewage disposal systems within such areas of the city or the township, as the case may be, as may be indicated in the bylaw;

"(b) establishing fees for the treatment of pumped-out sewage and for certifying compliance with the bylaw; and

"(c) authorizing the city or the township, as the case may be, to collect in like manner as real property taxes the cost of work done by the municipality when the owner fails to carry out pump-outs required by the bylaw and to impose a fee for doing so."

Are we ready to deal with the amendment and the bill? All in favour of the amendment?

Motion agreed to.

Section 1, as amended, agreed to.

Sections 2 to 4, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, Mr Harris and Mr Burke.

#### PORT ELGIN SPORTSMEN'S CLUB ACT, 1992

Consideration of Bill Pr41, An Act to revive Port Elgin Sportsmen's Club.

**The Chair:** Next on our agenda, Mr Elston is presenting Bill Pr41.

**Mr Murray J. Elston (Bruce):** Thank you very much, Mr White. I have with me Murray Wolfe and Murray Fenton from the club. It's an organization that now needs to be revived. It fell into disuse because of some filing problems and inadvertences more than anything else. I think it's passed through all the various stages of checking. I don't think any difficulties have been brought to our attention. Mr Wolfe and Mr Fenton are here to address any concerns with respect to the bill. By the way, this is Murray Wolfe, and this is Murray Fenton, just so you know which is which.

**The Chair:** Any comments, Murray? Do any members have comments? Mr Ruprecht.

**Mr Ruprecht:** Mr Chairman, since this has Mr Murray—

**Mr Elston:** Elston. How soon they forget. I'm going to have to start speaking more in the Legislature.

**Mr Ruprecht:** The reason I was hesitating was because I was in Chelsea last Sunday—

**Mr Elston:** Chesley.

**Mr Ruprecht:** Oh, oh. Chesley, yes, that's an important distinction. As Mr Elston has discussed this matter in detail, I see no objection whatsoever. We're very happy indeed with what's here.

**The Chair:** Thank you, Mr Ruprecht. Any questions on this bill? No? Okay, then—oh, I'm sorry. Mr Mills, any comments?

**Mr Mills:** No, but I always like to keep him on edge a bit, you see.



**The Chair:** Well, I'm glad I asked for Mr Mills's comments. Very insightful ones, too.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

**The Chair:** Thank you very much, Mr Elston, Murray and Murray.

#### CITY OF TORONTO ACT, 1992

Consideration of Bill Pr43, An Act respecting the City of Toronto.

**The Chair:** I believe Mr Dadamo will be presenting this bill.

**Mr George Dadamo (Windsor-Sandwich):** Mr Hansen will.

**The Chair:** Mr Hansen will be presenting this on behalf of Mr Marchese. Mr Hansen, could you introduce your colleagues?

**Mr Hansen:** Yes, Mr Chair. I'll be filling in for Mr Marchese on Bill Pr43, An Act Respecting the City of Toronto. I'm just going to give a brief outline. It has to do with speed bumps in private lanes and signage to be put up along the roads indicating where speed bumps would be. I think I'll turn it over to the solicitor, Mr Winer, and he can explain it to the committee.

**Mr Morris Winer:** Yes, it concerns speed bumps. We already have legislation respecting speed bumps; however, the Minister of Transportation requested that we seek an amendment to make it unnecessary for us to seek approval for each bylaw we pass concerning speed bumps. With me is Mr Wayne Jackson, director of transportation for the public works department. It's our understanding that the Minister of Transportation approves this bill.

The problem has arisen especially with respect to public lanes. As you know, there is a tremendous parking problem in the city of Toronto. Over the years the city has been paving its lanes in order to induce property owners, home owners and businesses to use the loading docks and garages in the back, in the lanes, and thus relieve the parking problem.

However, people seeing these lanes have started using them to make shortcuts to avoid left turns and have sped through, so it's our intention to insert speed bumps in the lanes in order to avoid a lot of danger. There are very little sight lines in these narrow lanes. Children play in them and it would be very important to slow down the traffic.

**The Chair:** Thank you very much, Mr Winer. Mr Mills, any comments?

**Mr Mills:** I'd just like to say that I have counsel for the Ministry of Transportation, Nina Chyz, here this morning. I think it would help the committee and make the comment much more succinct if, before any discussion goes back and forth, I call on counsel to verify a few things. Nina?

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**Ms Nina Chyz:** While the Ministry of Transportation does not oppose the repeal of the approval requirements for the installation of speed control devices, commonly known as speed bumps, on roadways within the municipal

jurisdiction, the ministry does want it on record that it does not promote or endorse the establishment of such speed control devices or speed bumps, which it considers an unsafe method of controlling the rate of speed at which people travel.

**The Chair:** Any questions? Mr Ruprecht.

**Mr Ruprecht:** Yes, I have a question. Being from the city of Toronto and formerly on the city council, what would the ministry then propose in terms of controlling the traffic? In other words, what else do you think can be done in this kind of situation? Is there anything?

**Ms Chyz:** If there are speed limits established and people are travelling too fast for them or they're exceeding those speed limits, then it's a matter of enforcement.

**Mr Ruprecht:** I guess I'll stand my next question down until we get to Mr Jackson.

**Ms Sharon Murdock (Sudbury):** I have a question of the gentleman, if I may. I'm not from Toronto and when you were describing the situation, I was trying to think—could you give me an example of where that would be, so I might know where it is? I have no vision of a private lane on a roadway.

**Mr Winer:** I think this would better be answered by Mr Jackson, who can give some technical information.

**Mr Wayne Jackson:** Actually, what we're talking about are public lanes. They are actually public highways—we don't deny that—but they are lanes at the rear, for the most part, of houses. A lot of lanes are at the rear of stores. They are narrow. You would see the lanes, for example, if you were on Danforth and you went behind the stores. Typically, they are 10 or 12 feet wide, if I can use imperial measures. They're throughout the city.

**Ms Murdock:** Okay, I've got it. We have those in Sudbury too.

**Mr Mills:** Speaking outside of my uniform as a parliamentary assistant but as a member of this committee, I have some concerns about speed bumps because I find them very annoying, to say the least. I not only find them quite annoying but I find them somewhat dangerous in that if you descend upon these bumps and you don't really notice they're coming up, things could shoot loose in your car, distract you from your driving and result in some sort of accident. Perhaps the best way to control unnecessary speed is through enforcement of the speed limit. I'm really not a proponent of speed bumps in any way, shape or form to prevent people from speeding. I don't think that's the solution.

**The Chair:** Do you have any questions, Mr Mills?

**Mr Mills:** I have no questions.

**Mr Ruprecht:** Obviously we're going to have a bit of a problem here, but I'm going to ask Mr Jackson, can you describe for this committee, especially for the parliamentary assistant, cases in fact where children were nearly nicked by speeding cars and/or any other problems associated with speeding in these back lanes.

**Mr Jackson:** Yes. Basically, what I'd like to impress is that we are talking about two different things. We're not talking about a public road like University or College or a



street that you would normally drive down. What we are talking about are the narrow lanes at the rear of the buildings.

As I said earlier, these lanes are typically 10 to 12 feet wide. Enforcement's impossible. The police can't get in there to enforce. They have no place to set up radar traps. We've requested that and been told that they can't do it.

The purpose of paving the lane was so that they could be used year-round for parking to help alleviate the parking problem on the street, and what we have found since we paved them is that the children now have a great place to play hockey. Even though we are requesting speed bumps, we're not saying there's a great volume. What we're saying is that the number of vehicles going down isn't large; it's the speed they're travelling relative to the conditions. They are only 10 feet wide. There's nowhere to get out of the way if you're playing hockey and a car's coming down. We also find that some of the lanes are being used as pedestrian walks, specifically as back ways into plazas, for example, so we would have a fair number of pedestrians.

With any bump that's installed, the driver will be forewarned. In front of the bump there will be a sign that says "Bump ahead." There will be a sign at the location that says "Bump here." The bumps in fact will be painted yellow, so at least when there is no snow on the ground, it will be obvious there's a bump there. We'll follow exactly the same signs we now have on Balmoral and Farnham, two public streets.

We are in agreement that bumps should not be on typical streets. This is not the typical street. This is the back lane where we're having troubles.

**Mr Derek Fletcher (Guelph):** I grew up in the west end of Toronto, the Jane and Bloor area—you know, Beresford, Windermere, Willard Avenue—and they had laneways behind them and that's where we used to play as children. We played everything in there. In fact we sometimes played jumping from one roof to another, which was probably more unsafe than anything else, but one of our best games was hide-and-seek, and that was around dusk. Cars coming through usually came through at a pretty good clip and you could get seriously injured. Fortunately we didn't lose anyone to a vehicle when I was growing up, but the possibility was always there. It is a great place for hockey, I agree, that or a dead-end street, one or the other.

As far as the speed bumps are concerned, I can see the merit of having speed bumps in the laneways that go behind the buildings. It's easy for someone to step out from a garage, if there are garages on both sides, or buildings, and if you're not cognizant of the speed or anything else, it'd be easy for a fatality to happen. I can understand the request for the bumps. I think it's a good idea.

**The Chair:** Further comments or questions?

**Mr Leo Jordan (Lanark-Renfrew):** It would appear from reading the bill that it doesn't limit your authority to these laneways. What clause would limit you to using them on private laneways or narrow access roads?

**Mr Winer:** You are correct. At present they are not limited to the laneways, but we have not used them for any other street except Farnham and Balmoral.

**Mr Jackson:** That was about 12 years ago, plus they were put in on two public streets. Since that time, I would say at least 15 times the department of public works through the commissioner, has gone on public record as saying we could not recommend speed bumps on regular streets.

**Mr Jordan:** But it gives you the authority if you should need it.

**Mr Jackson:** Yes.

**The Chair:** Further questions or comments? Hearing and seeing none, are we ready for a vote on Bill Pr43?

Sections 1 to 3, inclusive, agreed to.

**The Chair:** Shall the preamble carry? If you wish to issue a dissent, Mr Mills, perhaps you could voice it. Shall the preamble carry?

**Mr Mills:** No.

**The Chair:** In my opinion it's carried.

Preamble agreed to.

**The Chair:** Shall the bill carry?

**Mr Mills:** No.

**The Chair:** In my opinion the bill carries.

Bill ordered to be reported.

**The Chair:** Thank you very much, gentlemen.

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#### BIKUR CHOLIM ACT, 1992

Consideration of Bill Pr48, An Act respecting Bikur Cholim.

**The Chair:** Next we have Bill Pr48, An Act respecting Bikur Cholim, Mr Joseph Cordiano presenting.

In the interim, I could remind members that a shake of the head is not equivalent to a voice vote; one has to vocalize one's objections.

**Mr Joseph Cordiano (Lawrence):** We are here to deal with Bill Pr48, looking for property tax exemption for Bikur Cholim, a hostel operated by this charitable organization. It is a registered charity with a Revenue Canada registration number. The organization is largely comprised of volunteers. The hostel and the operations of the organization include services for Meals on Wheels to the elderly, special needs to hospital patients, hospital visits and home visits, and the organization also acts in liaison to link the elderly and families with appropriate medical and social services.

The property, at 506 Coldstream Avenue in my riding, contains four apartments of one and two bedrooms plus a superintendent's apartment in the basement, and the apartments are available to families of patients who travel from elsewhere for medical care.

That's what we're dealing with here, and I'd like to present Mr Steve Shulman, who is the counsel this morning for the organization, along with Selma Elzas.

**The Chair:** Comments, please.

**Mr Steven Shulman:** Ms Elzas is the coordinator of Bikur Cholim, the applicant, and she's available to answer any questions you may have as to the operation of the property.



This property, as Mr Cordiano said, is a hostel which was opened in 1990, and it caters to people who come from outside of Toronto who have relatives in hospital here. It's important to note that this property serves a unique need in the community in that it is a Jewish organization, which doesn't mean it closes its doors to people from the outside, but it serves a particular need within the Jewish community to have a hostel that follows certain laws according to Jewish tradition, such as Sabbath laws and food laws. People don't pay to use the subject property. The best comparison I could give you that you may all be familiar with is the Ronald McDonald House type of operation.

Bikur Cholim is applying for this exemption because, as I'm sure all of you are aware, it's very difficult, for one thing, for a charity to operate, particularly in these times, and given that it runs totally on charitable donations it would be very difficult indeed for this organization to bear the brunt of municipal and school taxation. That's why they're seeking the exemption.

As well, it's important to note that, as has most of the precedent legislation that's been passed that has the same effect, this legislation requires a bylaw to be passed by the council of the city of North York. So if you decide today to allow this legislation, it doesn't mean there isn't another step. There is another step and certainly North York would look at this again. We have notified all concerned levels of government, North York, Metro and the board of education.

There's a couple of issues to point out in advance. I don't think there's anything particularly controversial about this legislation, and in the compendium we filed along with the draft bill we pointed out the precedent legislation we followed in drafting this legislation. There are a couple of issues, though, I would like to draw your attention to.

One is in terms of retroactivity. In the legislation we've asked for retroactivity to January 1, 1990. There are a few reasons for this.

The history of this is that Bikur Cholim, the organization, tried to get an exemption under the Assessment Act through 1990 and 1991 assessment appeals. They found out after the fact, after a wait of about a year and a half, that they could not do this through the Assessment Act, and that's how the process began in the fall of 1991 to move ahead with an application for this type of legislation. So there has been an effort. It hasn't really been a delay on the part of Bikur Cholim to move ahead with this process. It's just that they started with the wrong process through inadvertence; really, through misinformation.

As I said, we started this process in the fall of 1991 and advertising actually started in calendar year 1991. As well, it's important to note that it is not unprecedented to have retroactivity built into legislation of this kind. I don't know if all of you have the compendium; it has precedents in it, legislation that has retroactivity of this type built in to it, so this would not be the first time. So given the fact that Bikur Cholim really tried from day one to get the exemption, albeit by incorrect means, it's really through no fault of the organization's that it went down the wrong path.

In addition, as to the effect on Bikur Cholim's finances to have to pay that, going back now to 1990 and 1991 taxation, Ms Elzas can probably comment on that better

than I could. As you're all aware, it's a very difficult time for charities, and I appreciate it's likewise a difficult time for governments at all levels.

However, as I said, North York will have the final say in terms of retroactivity. This leaves the option open to North York to provide the full retroactivity back to January 1, 1990, so ultimately it will have the say to be able to look at its finances and the municipal and school board finances as well, and representations can be made there. By no means are you imposing something on another level of government if you give North York the option to go back to retroactivity to January 1, 1990.

One other point. There is a representative of the Ministry of Municipal Affairs here. I was informed yesterday that Metropolitan Toronto stated that it hasn't had enough time to consider this. I understand that we all often have things sitting on our desks and we don't get to them until the very last minute, but Bikur Cholim has been involved in this process for several months now, and Metro has had this for at least a month. It is not, as I stated before, ground-breaking legislation, and my submission is that Metro really doesn't need more time. Even if they only brought their attention to it yesterday, it's a one-page or one-and-a-half-page piece of legislation that surely they've seen before.

I don't want to pick a fight with Metro here, and if it's the committee's opinion that you will not pass this legislation without Metro saying it has had enough time to look at it, then we will be agreeable to adjourning it and coming back at another time, because I don't want to jeopardize the legislation. That's clearly what I don't want to do. However, I spoke to the Clerk of the Legislature yesterday, who suggested that we come forward today so as not to delay any further, and make our submissions, and then of course you can decide. Please, if there are concerns, let us know about them before it goes to the vote. That's about it. If you have any comments in terms of the finances and the current situation, maybe you could share that with the committee.

**Ms Selma Elzas:** My name is Selma Elzas, and I just mention again that I'm the coordinator of Bikur Cholim. As Mr Shulman indicated, we are completely funded by private donations and don't receive any government assistance or any special funding of any type.

Over the past year to 18 months, of course, those donations have gone down dramatically, and a direct result of that is represented in our service delivery, which we try very hard to maintain in terms of a high level of accessibility for all our clients and users. But due to the deficit and due to the decrease, we've had to cut certain programs.

Paying back taxes would probably impinge on those allocations very dramatically. Already we've had to cut down on the size of our food program, the food program that was indicated, which goes to special-needs hospital patients, isolated and needy elderly people in the community, people for whom the traditional Meals on Wheels program is not appropriate. We also provide a lot of home support services in terms of homemaking and other kinds of needs that we assess and then try to fund.



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Even though we are operated completely by volunteers in terms of the visiting and the service delivery, we do call upon resources in the community, which we then fund for people who aren't in a position to do that. We've had to cut services already. We also provide medical and educational support services that are not available elsewhere, which we've had to cut.

We've already seen a pretty fairly consistent decrease in the service delivery that we've been able to provide, and we therefore take it from here that any back payment of taxes would further impinge on the service delivery which we've fought and struggled to maintain, because we already have the mandate of serving people who fall between the cracks of service in our community. We just want to make sure they don't fall into the cracks any more.

**Mr Cordiano:** I'd just like to make one final comment to the members of the committee. These services are critical to my riding because there are a large number of seniors, elderly people, who reside in and around the service area of which we're speaking. I think we would seriously jeopardize those services if the operations of Bikur Cholim and other organizations like it were cut back; we would see some serious declines in services. That's happening throughout Metro Toronto, but we certainly could help by bringing this forward at this time. That's my plea to the committee.

**The Chair:** I believe we have a couple of interested parties present from Metro Toronto and the city of North York. Is that true?

Interjection.

**The Chair:** North York is not represented?

**Mr Ivan Araujo:** I represent Metro Toronto.

**The Chair:** Okay, so the city of North York is not presently represented. Would you join us at the table, sir, and introduce yourself.

**Mr Araujo:** My name is Ivan Araujo. I'm with the Municipality of Metropolitan Toronto, treasury department. I'm here representing the chief administrative officer of Metro Toronto, really to ask for a slight deferral so this private member's bill can be considered by the chief administrative officer. We anticipate we'd require about a week to 10 days to complete the review of this matter.

**The Chair:** We have on the list Ms Murdock, Mr Jordan and Mr Sola.

**Ms Murdock:** Thank you for coming. If there has been this much notice, as has been stated earlier, how is it that you haven't looked at it thus far?

**Mr Araujo:** I was advised yesterday by the Metro solicitor that the chief administrative officer has had no notice of this bill. I'm going to submit two possible reasons. Again, let me say I was told to attend this just about an hour ago, so don't shoot the messenger.

**Ms Murdock:** No, I won't shoot the messenger.

**Mr Araujo:** Maybe this information will help. First of all, in Metro Toronto there has been a slight shift in responsibility for reviewing property tax exemptions by way of private members' bills. This occurred about six to eight

months ago. I'm with the Metro treasury department; we had responsibility for it. It's now shifted to the chief administrative officer's department, so in a sense we are in state of transition policywise.

The other aspect is more physical. You may know we have moved to Metro hall from city hall. Again, no excuses, but off the top of my head, I'd say these are two possible reasons why we're in this position today.

I'm aware to some degree of the chief administrative officer's policy guidelines on this, but I would quite frankly prefer to let that be known to this committee at a time when he's had an opportunity to review it.

**Ms Murdock:** And you're saying 10 days?

**Mr Araujo:** I would say a week to 10 days.

**Ms Murdock:** This committee only sits when the House is in session, is that not correct?

**The Chair:** Yes.

**Ms Murdock:** And next Wednesday is a holiday. In other words—

**The Chair:** That's right. So if there's a session in the second week in July it would come back, or pending that, it would be about the last week in September.

**Mr Cordiano:** Could I make a point, Mr Chair?

**The Chair:** Certainly, Mr Cordiano.

**Mr Cordiano:** As Mr Shulman indicated to me previously, he was not aware of Metro's concerns until yesterday. I think it would have been more appropriate if we had had some earlier notice of the difficulties Metro was experiencing, and if this committee had been made aware of those difficulties we also could have scheduled our time more wisely so as not to delay this organization and waste the time of the committee.

That is my biggest concern here, that we will be delaying this further. As you pointed out, Mr Chairman, the next opportunity probably won't be for some time, in the fall sitting of the Legislature, if I'm not mistaken. This means at least a four- to five-month delay, so we're talking about a serious bit of time here, and I don't see that that should be the result of this.

**The Chair:** We have Mr Jordan, Mr Sola, and the parliamentary assistant also wishes to speak.

**Mr Jordan:** I'm interested in section 2, making it retroactive for two and a half years, relative to the amount of money we're talking about. Would whoever has that information be prepared to give it to the committee?

**Mr Shulman:** Yes. First of all, as to the situation in terms of the city of North York, the city of North York has been very cooperative from day one with this in that the city has not enforced taxes going back to 1990 because it was aware that, first through the process of the assessment appeal, trying to get an exemption via the Assessment Act, and second through this application process, Bikur Cholim was making these efforts.

The amounts we're talking about—I was just looking at the tax bills—are about \$4,900 for 1990 and about \$5,100 or \$5,200 for 1991. That, may I remind you, is the year this actual formal process began in terms of advertising beginning and contacts to the legislative counsel commencing. So those



are the two prior years before 1992. Those are the amounts we're talking about, which may not sound like a lot. I'm not saying—certainly I understand the situation municipalities are in, but to this organization approximately \$10,000 to \$11,000 is very serious in terms of its operations.

**Mr Jordan:** When you say \$10,000 or \$11,000, is that the total amount, and then a percentage of that goes to Metro?

**Mr Shulman:** A percentage would go to Metro.

**Mr Jordan:** What percentage? Do you know?

**Mr Shulman:** Probably the Metro solicitor may have a better idea of that, or the ministry.

**Mr Araujo:** I'm with the Metropolitan treasury department. I would say that out of every 100 cents of a tax dollar about 25 cents goes to Metro, about 22 cents goes to the local municipality and the balance to the school board.

**Mr John Sola (Mississauga East):** I agree with the purpose of this bill, but I'm a little hesitant about the retroactivity portion as I think the legislative counsel for this committee in his report last year stated that was one of his concerns. I wonder if legislative counsel could go over that for us. I know that when the government brought in the rent control bill, we tried to use that in the House as an argument against the retroactivity portion of that legislation. I wouldn't want to be in contradiction with myself by voting for something I had opposed with another bill.

1050

**Ms Laura Hopkins:** I understand that when the committee considered retroactivity as an issue around its last report, it was looking at it in the context of regulations, where it's a different kind of problem. Retroactivity in bills is not as much of an issue. I also understand—and the representatives from the Ministry of Municipal Affairs may be able to give you more advice—that it's not unusual for a bill of this sort to provide for a measure of retroactivity.

**Mr Ron Eddy (Brant-Haldimand):** This is legislation allowing a local council to make a decision. The matter of taxes is a local matter, subject to the other two parties of course having input. I'm in agreement with the bill, including the retroactivity, because it does permit a local council to make a local decision, and I think the more we encourage that in this world, especially in this province, the better.

**Mr Mills:** I think we have to understand is that this will affect Metro and it affects schools. The position of the Ministry of Municipal Affairs is to ask for deferment of this in deference to the position of Metro. I don't think we make a decision for one level of government without involving the other level of government, and it does impact very much on Metro. For that reason alone, I would ask for your indulgence and consideration to defer this, to allow Metro to have that input.

**Ms Murdock:** In terms of the deferral suggestion and the House sittings, we are supposed to sit the week after the long weekend, which is lucky for you. I'm wondering what the schedule of this committee is. If it was deferred, could it come back that soon or would it have to wait till September?

**The Chair:** We can bring a bill up every Wednesday morning that the provincial Parliament's in session. I'm not aware of the agenda, but if it was felt to be important,

we could obviously have a fairly brief meeting if there was only one bill.

**Mr Cordiano:** I can appreciate Metro's difficulties, but I don't see that there are any real concerns here with respect to this bill. My concern is that as members of the Legislature we have from time to time said that when we hold meetings we should be efficient in our use of time. This does involve time. People have come here and people have made commitments. From my point of view, to defer this would simply add to those commitments and those costs. I think we owe that much to the people who have presented here today. Certainly they should have been notified in reasonable time that this matter might have been deferred. Therefore they would not have made their commitment to be here today, having been properly notified in advance with enough time to make those decisions. This is the concern I have.

**Mr Mills:** Just to clarify the last item, it's my understanding from staff that they've been notified all along about this and it wasn't a last-minute notification at all.

**The Chair:** By staff, you mean staff of Municipal Affairs.

**Mr Mills:** By Municipal Affairs, yes.

**The Chair:** But the question I think was whether notification to Metro was in order.

**Mr Cordiano:** Let's have the correction on that.

**Mr Mills:** I think we have to have comment from staff.

**Ms Linda Gray:** The applicant was notified that the policy of the Ministry of Municipal Affairs is that they should notify all parties affected, particularly Metro, because in effect the bill impacts Metro without Metro having a say in the matter. It allows North York by bylaw to exempt the applicant from taxes, but Metro is tied in by the bill itself. So the ministry notified them that it would like to see resolutions of support from the municipalities and the school boards affected. We did not know ourselves until just yesterday that Metro itself was going to appear and ask for a deferral.

**Mr Cordiano:** That was the point we made earlier. You're not really clarifying; you're reiterating what I had said. The point was made.

**The Chair:** Quite right, Mr Cordiano.

The question before us is not really the question of support of the bill, but the question of deferral. That motion hasn't been put forth other than in suggestion. Do we have a motion so that we can debate it?

**Mr Mills** moves deferral of the bill.

**Mr Mills:** I'm looking at probably July 2.

**The Chair:** July 1 is a Wednesday. It would be July 8. That would be the next possible meeting of the committee, Mr Araujo. That would mean, of course, that we were sitting that week. It hasn't as yet been confirmed. Mr Cordiano suggests no.

**Mr Mills:** Maybe he knows more than we do.

**The Chair:** Can we have that in writing, Mr Cordiano?

**Mr Cordiano:** I'd be happy to speak to your House leader and try to negotiate that.



**The Chair:** So basically we would be looking at either July 8 as the earliest possible time for this bill to come back or perhaps as late as late September. The motion has been put on the floor to that effect. Shall we debate that motion or are we ready for a vote on the motion?

**Mr Eddy:** Vote.

**The Chair:** Okay, we are ready for a vote on the motion to defer. All in favour of Mr Mills's motion? Unanimous.

**Mr Ruprecht:** I object.

**The Chair:** I'm sorry; we're not unanimous. I thought I saw your hand, Mr Ruprecht; my apologies. Mr Ruprecht

has clarified himself on that. None the less, that vote carries. Hopefully, we'll be able to resolve these difficulties. Mr Araujo, you can undertake to be in contact with Mr Shulman.

**Mr Araujo:** Yes, I will. I'll inform the department of what occurred today and I'll be in touch with the ministry as well.

**The Chair:** Thank you very much. I look forward to seeing you again, although it's unfortunate that we were unable to resolve this more speedily.

The recessed at 1058.

#### AFTERNOON SITTING

The committee resumed at 1617 in room 228.

#### TOWN OF MATTAWA AND TOWNSHIP OF MATTAWAN ACT (OTTO HOLDEN DAM BYPASS), 1992

Consideration of Bill Pr50, An Act respecting the Town of Mattawa and the Township of Mattawan.

**The Chair:** I'd like to call this meeting to order. Before us we have Mr Ernie Eves, the member for Parry Sound, presenting Bill Pr50.

**Mr Ernie L. Eves (Parry Sound):** Thank you, Mr Chairman. This brings back old memories. I used to be the Chairman of this committee once, a long time ago, about 1981 or 1982, I believe.

I also would like to thank the committee initially for its indulgence in this matter, as well as the Minister of Municipal Affairs, whose staff helped immeasurably in drafting the legislation.

The purpose of the legislation is to give the municipality of Mattawa and the township of Mattawan the ability to negotiate and reach agreement with Ontario Hydro with respect to the Otto Holden dam site so they can construct a passage around the dam site for the Ottawa River waterway.

It's my understanding that there's an agreement between the province of Quebec and the province of Ontario. I've spoken to the Minister of Tourism and Recreation here who is very supportive of the project as well. By you people allowing the bill to go through during this spring sitting of the Legislature, they will be able, hopefully, to start construction of the project this summer.

If there are any questions, I'd be pleased to try to answer them.

**The Chair:** Thank you, Mr Eves. Mr Sola.

**Mr Sola:** I was just motioning to the former leader of the Liberal Party to come in and partake.

**The Chair:** Any questions on the bill?

**Mr Hansen:** There are no objections?

**Mr Eves:** None that I know of. As a matter of fact, as I said, the Minister of Tourism and Recreation is very supportive, the Minister of Municipal Affairs is very supportive and not one single person has raised any concerns to me or the municipality, to the best of my knowledge.

**Mr Hansen:** It was advertised in the local papers?

**Mr Eves:** I understand that the proper notice or advertising has been done.

**The Chair:** It's my understanding from the clerk that there have been no individuals presenting concerns, that the Minister of Tourism and Recreation is, as you say, in favour and that the parliamentary assistant to the Minister of Municipal Affairs has no concerns, having canvassed his ministry.

**Mr Hansen:** On the government side, I don't have any concerns.

**Mr Sola:** On our side, we have no concerns. The proponent is so eloquent, I think we'll vote in favour.

**Mr Ruprecht:** I was going to ask about the parliamentary assistant, but as that is stricken off now, I just want to congratulate Mr Eves for showing up here and giving us this nice introduction. I know that when he does that he takes it seriously; therefore all of us should agree to support this bill.

**The Chair:** Indeed. We're then ready for a vote.

Sections 1 to 5, inclusive agreed to.

Preamble agreed to.

Bill ordered to be reported.

**Mr Eves:** Thank you, Mr Chairman.

**The Chair:** We're now adjourned.

The committee adjourned at 1621.





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## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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**Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)

**\*Dadamo, George** (Windsor-Sandwich ND)

**\*Eddy, Ron** (Brant-Haldimand L)

Farnan, Mike (Cambridge ND)

**\*Hansen, Ron** (Lincoln ND)

**\*Jordan, W. Leo** (Lanark-Renfrew PC)

**\*Mills, Gordon** (Durham East/-Est ND)

**\*Ruprecht, Tony** (Parkdale L)

**\*Sola, John** (Mississauga East/-Est L)

Sutherland, Kimble (Oxford ND)

Wilson, Jim (Simcoe West/-Ouest PC)

### **Substitutions / Membres remplaçants:**

**\*Murdock, Sharon** (Sudbury ND) for Mr Sutherland

**\*In attendance / présents**

### **Also taking part / Autres participants et participantes:**

Chyz, Nina, legislation counsel, Ministry of Transportation

Gray, Linda, coordinator, private legislation, Ministry of Municipal Affairs

**Clerk / Greffier:** Decker, Todd

### **Staff / Personnel:**

Klein, Susan A., legislative counsel

Hopkins, Laura, legislative counsel

Fensom, Avrum, research officer, Legislative Research Service





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Second session, 35th Parliament

## Official Report of Debates (Hansard)

Wednesday 8 July 1992

Standing committee on  
regulations and private bills

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Deuxième session, 35<sup>e</sup> législature

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Clerk: Todd Decker

Président : Drummond White  
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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 8 July 1992

The committee met at 1002 in committee room 1.

**The Chair (Mr Drummond White):** I'd like to call this meeting of the standing committee on regulations and private bills to order. The first two bills on our agenda are Bills Pr37 and Pr38, and I believe Mr Ron Hansen will be sponsoring on behalf of Anne Swarbrick.

### SPRING GREEN CO-OPERATIVE ACT, 1992

Consideration of Bill Pr37, An Act to revive Spring Green Co-operative.

**Mr Ron Hansen (Lincoln):** Bill Pr37, An Act to revive Spring Green Co-operative, I think is a very simple case. It's a case where the corporation hasn't filed financial statements for a period of, I believe, two years because there's been a large turnover of directors on the board. What has happened is that the notices have gone to directors who are no longer on the board and never been returned to the Spring Green Co-operative. I would like the solicitor here to maybe explain it a little bit more and explain the bill and the reasons she is here.

**Ms Katryn Pereira:** My name is Katryn Pereira, and I represent both housing cooperatives, Spring Green and Silverbirch.

With respect to the Spring Green co-op, as Mr Hansen has said, there was quite a turnover of directors, so the current directors were not aware of the dissolution because of the notice having been sent in the past to a past director. It's important that this co-op be reinstated because then the property, which has currently reverted to the crown, will revert back to the co-op. That's the main reason for using this method to revive the corporation.

**The Chair:** Any questions? Mr Parliamentary Assistant?

**Mr Gordon Mills (Durham East):** No objections.

**The Chair:** Are we then ready for a vote?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

### SILVERBIRCH CO-OPERATIVE INC ACT, 1992

Consideration of Bill Pr38, An Act to revive Silverbirch Co-operative Inc.

**Mr Hansen:** Mr Chair, I'll hand over to the solicitor again. I think it's a straightforward issue again.

**Ms Pereira:** Silverbirch co-op is a housing cooperative of 16 units and provides affordable housing to approximately eight members. It too was dissolved back in 1984 because of the turnover of directors on the board and only became aware of the dissolution more than two years following the date of dissolution. It's important, for reasons of its mortgage with CMHC, to have the co-op revived in this manner. I ask that the committee pass this.

**The Chair:** Mr Parliamentary Assistant?

**Mr Mills:** No objections.

**The Chair:** Are we then ready for a vote?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

### LYTTLE INVESTMENTS LIMITED ACT, 1992

Consideration of Bill Pr53, An Act to revive Lyttle Investments Limited.

**Mr Jim Wilson (Simcoe West):** On behalf of my colleague Mr Norman Sterling, I'd like to present to the committee Bill Pr53, An Act to revive Lyttle Investments Limited. As we saw in the previous legislation, it's simply a revival of a defunct corporate entity. Perhaps the witness would like to introduce himself and speak for a moment on the bill.

**Mr Stephen Cooper:** My name is Stephen Cooper. I'm the solicitor for the estate of the late Robert Lyttle, who was the sole shareholder of Lyttle Investments Ltd. Back in the late 1970s, Mr Lyttle had an unfortunate operation that left him severely handicapped for a number of years. During that period this company was dissolved. He was getting back to functioning in the late 1980s and then, unfortunately, about a year ago he was hit by a train and died very quickly. His widow is trying to reinstate this corporation so that she can deal with the assets that belonged to her husband.

**Mr Jim Wilson:** Perhaps, Mr Cooper, for the record you could explain the nature of the failure to comply with income tax requirements, which is the reason for the dissolution.

**Mr Cooper:** During this period he was not filing returns because, as I said, he had this operation and was not functioning well. All the returns have now been filed and everything is turned back.

**Mr Jim Wilson:** That's great. Mr Chairman, I expect the ministry, the government, has no objection to this.

**Mr Mills:** None.

**The Chair:** Any questions from committee members?

**Mr Tony Ruprecht (Parkdale):** What business is Lyttle Investments in?

**Mr Cooper:** Lyttle Investments owns three pieces of real estate: One is a grass airport strip that has been farmed; the second is a place where another corporation carries on a trucking operation, and the third is a residential unit that is rented out. Those three pieces of property are really all that Lyttle Investments has had.

**The Chair:** Any further questions? Are we then ready for a vote?



Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

1010

#### TOWNSHIP OF UXBRIDGE ACT, 1992

Consideration of Bill Pr56, An Act respecting the Township of Uxbridge.

**The Chair:** We now have Bill Pr56, An Act respecting the Township of Uxbridge, Mr Larry O'Connor presenting.

**Mr Larry O'Connor (Durham-York):** It's a pleasure to be here before the committee. As you know, I spent some time on this committee and was the Vice-Chair for a little bit. It's a pleasure to be here with the solicitor for the Township of Uxbridge, Mr Quinto Annibale, and we have one amendment that I'd like to move when it's permissible or have a committee member move it.

For the members who don't know the township of Uxbridge, it's about an hour's drive northeast of here. It's a lovely rolling community that's right on the Oak Ridges moraine, and it has some unique geological features to it. Hence the purpose of the bill is to talk about dumping in some of the areas that have been affected by the removal of some aggregates and peat. I will introduce the solicitor from the town to speak on the bill or answer any questions.

**Mr Quinto Annibale:** As Mr O'Connor indicated, my name is Quinto Annibale. I'm the solicitor for the township of Uxbridge. I'd just briefly like to outline what the bill entails and perhaps speak on the salient features of it.

Essentially the purpose of the bill is twofold. It's to permit the regulation or the prohibition of the dumping of fill without the obtaining of a permit from the municipality in advance. Second, it's to permit the regulation or prohibition of the removal of peat from lands within the township without a permit from the municipality. There are various administrative sections in the bill dealing with the charging of a fee and the imposition of conditions. It provides for certain significant exceptions dealing with various government authorities.

The bill is necessary because neither the existing law nor the Municipal Act currently permit the municipality to regulate in either of these areas. It's similar to legislation which has been granted by the province in the past, namely, the Town of Richmond Hill Act, the City of Windsor Act, the Town of Oakville Act, and most recently the adjoining municipality, the Town of Whitchurch-Stouffville Act.

The act amends no existing legislation and as far as I'm aware, there doesn't appear to be any opposition to the bill.

**Mr Jim Wilson:** I just have one question to Mr Mills, the parliamentary assistant, or through Mr Mills perhaps to research. I do recall that this committee has passed a number of bills that are very similar to this one. I'm just wondering, really for the sake of information, is there anything in this bill that would deviate or be different than those we passed previously dealing with dumping?

**Mr Mills:** The Ministry of Municipal Affairs has taken a comprehensive look at this issue with all the stakeholders. It's hoped that we will have some legislation or some bill in the spring of 1993, but in the interim we have

no objections to this bill, and it will not hinder or infringe on that.

**Mr Jim Wilson:** With any future legislation—because that's exactly what I was going to suggest, that rather than municipality after municipality spending the money and time appearing before this committee, that the ministry deal with this issue—I gather the intent would be to have the new legislation supersede these bills we've been passing here in this committee.

**Mr Tom Melville:** The ministry is now leading an interministry committee in developing terms of reference for a comprehensive review of all pre-development issues. It would be premature to say whether that will lead to legislation at this time.

**Mr Jim Wilson:** Are you trying to tell me this is part of the Sewell report? I won't hold my breath on that one.

**Mr Melville:** I would comment on just a minor point about your earlier question. There is a small difference in this bill in that it deals with the removal of peat, which is a difference from the other fill bills.

**Mr Jim Wilson:** It's a good point.

Finally, if I may ask Mr O'Connor and his colleague from Uxbridge, to what extent is there a problem in Uxbridge both in dumping and the removal of peat?

**Mr O'Connor:** I will pass that on to the solicitor, but I will note for the members that I have received letters from people concerned about the extraction of peat in not only the township of Uxbridge but also Brock township, so it is a concern of local residents, the effect it could have on the aquifers. As I mentioned earlier, the geographic landscape is one that dates back to the time of the ice ages. We have a geological formation there that could be hampered by changes in large extractions in a certain area. As a member, I have received numerous letters, but I ask Mr Annibale to speak from the town's perspective.

**Mr Annibale:** Perhaps I can just comment on that. I don't have numbers for the member, but I can say it is a significant problem, both in terms of the removal of peat and the dumping of fill, with respect to the dumping of fill on private property simply as a general problem, but also in the development context, where developers are excavating and dumping fill on private property, it is a significant problem. As well, there have been numerous complaints with respect to the removal of peat, to the extent where council has felt it necessary to seek private legislation.

**Mr Hansen:** The town of Lincoln in my riding is also bringing a bill forward similar to the bill here. Just to explain maybe a little here to the rest of committee members—maybe you have the same problems—in some of the new subdivisions going in they scrape all the topsoil and pile it on a portion of the subdivision at the end, and that's an area that's going to be undeveloped for maybe a year or two. What happens is that soil is piled there, and when the winds come along, and the homes that are built in that particular area, it's being blown off these hills, plus the kids ride up and down and there have been a lot of accidents. Sometimes these hills will stay there for three or four years.



The other thing is that I've seen some objections come in in our town that have to do with agriculture, spreading manure. "What do you call infilling? What about that pile of manure at the back?" When the bill comes forward from the town of Lincoln there will be some questions in that particular area. Maybe you could just fill in on why there are not objections here. We've got contractors objecting also.

**Mr Annibale:** I'm not sure why there aren't objections. I can address the concern with respect to agriculture. The purpose of the bill is not to prohibit altogether or permit the prohibition altogether of the removal of topsoil, but merely to obtain a permit from the municipality so that it has some control over the removal of the topsoil. If it is a legitimate agricultural undertaking, the municipality will exempt the undertaking. Maybe that's the difference. I've not seen the Lincoln bill. I don't know why the developers haven't opposed the bill.

**Mr Hansen:** They have; developers have.

**Mr Annibale:** In Uxbridge, I mean.

**Mr Hansen:** I see. Okay.

**Mr O'Connor:** You may have more significant numbers in Lincoln than we do in Uxbridge as well.

**Mr Hansen:** It could be. It was just a question I thought I'd ask.

**The Chair:** Are there any amendments at all?

**Mr Hansen:** I have an amendment. There's a small mistake in there. The "Minister of Housing" should actually be the "Minister of Municipal Affairs."

**The Chair:** Mr Hansen moves that subclause 5(3)(b)(ii) of the bill be amended by striking out "Minister of Housing" and substituting "Minister of Municipal Affairs."

Are we ready for a vote? We should vote first on the amendment. Shall the amendment carry?

Motion agreed to.

1020

**Mr Hansen:** The Chair should be giving a chance for opposition to it, who's for and against.

**The Chair:** Shall sections 1 through—

**Mr Mills:** Mr Chair, I've just been handed some concerns from the Ministry of Natural Resources, which wants two clauses, amendments, introduced into that bill. Are we beyond the point of redemption or can we still do that?

**The Chair:** We've amended subsection 5(3), so if we are looking at another amendment, another section would be—

**Mr Mills:** I apologize. It's just been rushed from the applicable ministry, and we didn't know as of yesterday. We had no idea this was coming forward.

**The Chair:** Perhaps we could have some explanation of the amendments?

**Mr Mills:** Yes; it's not a problem.

"3(e) aggregate as defined in the Aggregate Resources Act, 1989, brought on to a pit or quarry operating under a licence or wayside permit under that act as part of the operations of that pit or quarry;

"3(f) any rehabilitation or activity in a pit or quarry licensed under the Aggregate Resources Act as specifically addressed on the approved site plan."

Have we an explanation for that, Linda?

**The Chair:** Mr Parliamentary Assistant, 3(e) doesn't seem to refer to section 3 in the bill.

**Interjection:** It should be (f) and (g).

**Mr Mills:** Okay, (f) and (g). They've got it wrong here. I'm sorry. We'll get it right.

**Mr Hansen:** I'm still lost, Mr Chair.

**Mr Mills:** Perhaps it would be proper to have a slight delay to have the staff discuss this with the applicant.

**The Chair:** I'd suggest that we move to—we have passed one amendment. These amendments—

**Mr Mills:** Clauses 3(f) and 3(g).

**The Chair:** Clauses 3(f) and 3(g) seem somewhat curious. I'm sure they might merit some discussion as to where they go in the bill.

**Mr O'Connor:** As I said earlier, I talked about the unique glacial features. With those glacial features we have there, we'd have a lot of aggregate, and that's what this refers to. The solicitor here for the town has talked to the town this morning, and they have no problem with the amendments as proposed through the Ministry of Natural Resources.

**Mr Mills:** I apologize. We didn't—

**Mr Jim Wilson:** If it's any help, we saw similar clauses inserted into the other bills we passed that are similar to this legislation, so we certainly have no objection to these amendments.

**The Chair:** Okay, fine. Do we have the amendments?

**Mr Mills:** The clerk is getting copies for the members.

**Mr Jim Wilson:** As you recall, Mr Chairman, we debated this about a year ago in this committee.

**The Chair:** I would suggest that while counsel is examining the amendments, we come back to this bill, but in the meantime proceed to the next bill Ms Ward is presenting.

**Mr Jim Wilson:** Mr O'Connor, I think, has a comment which might be helpful to counsel in their research.

**Mr O'Connor:** If I might perhaps help in the form of direction, one of the other communities I represent, the town of Whitchurch-Stouffville, has a very similar piece of legislation and has the same amendment, if they would like to refer to that bill. Again, as the solicitor for the town has informed me, there has been no objection to it.

**The Chair:** Yes. However, I don't have the amendment. It's being redrafted and still needs to be photocopied and distributed. I'm sure the delay, Mr O'Connor, won't be too grievous, so if we could move to Ms Ward's bill.

#### BOROUGH OF EAST YORK ACT, 1992

Consideration of Bill Pr57, An Act respecting the Borough of East York.

**Ms Margery Ward (Don Mills):** I'm pleased to introduce Bill Pr57, An Act respecting the Borough of East York. Mr Annibale is also representing East York as its



solicitor on this issue and he will be happy to describe the features of the bill and answer any questions.

I'd just like to comment that the East York health unit has put a great deal of work into this bill and is looking forward with great anticipation to its passage.

**Mr Annibale:** I'll briefly discuss the salient features of the bill. The primary objective of the bill is to permit the municipality to pass bylaws which regulate smoking in the workplace and in public places. Specifically, it may enact a bylaw requiring a workplace to adopt a smoking policy and give notice of such a policy to the employees of that workplace, but at the same time it will not require alterations of the structure of the workplace to accommodate that policy.

It requires the employer to consult with the employees to see if an agreement with respect to a smoking policy can be reached, and if not, then the policy of the workplace will be non-smoking. It also provides for the posting of signs throughout the workplace, or at least permits the municipality to require that in the bylaw.

The bill with respect to workplace goes on a bit further. One year following the enactment of a bylaw, the municipality may prohibit smoking in the workplace entirely and then after that, the only way smoking will be permitted is by permit issued by the municipality. So an application will be made to the municipality, the medical officer of health will do a report with respect to the workplace and then council either will or will not issue the permit for that workplace. That's essentially on the workplace side.

On the public side, the bill contemplates permitting bylaws to prohibit or regulate smoking in what's defined as "enclosed public places," again unless specifically exempted by the municipality by permit. There are specific provisions in the bill dealing with restaurants as well. Again there are administrative sections dealing with rights of entry conditions and permits, inspections, private dwellings and search warrants.

The bill itself is necessary because the Smoking in the Workplace Act, 1989, which, as you may know, is provincial legislation, in East York's opinion does not go far enough. The act applies only to enclosed workplaces but excludes workplaces which are also used by members of the public. That act imposes a severe onus on the employer to enforce the provisions of the act, whereas the East York legislation will permit local enforcement and local inspectors to attend. As well, there are significant exemptions under the Smoking in the Workplace Act. Up to 25% of the workplace could be designated by the employers as a smoking area. The municipality wants to have the ability to enact a bylaw to prohibit smoking entirely except where it's permitted following a report by the medical officer of health.

The public area provisions of the bill have been included because section 102 of the Municipal Act is of somewhat questionable authority with respect to both workplace and public place regulation when it comes to smoking.

Again, similar legislation has been enacted and this bill draws on those previous acts: the City of Toronto Act, the City of Etobicoke Act, the Town of Markham Act, and most recently a bill that is very similar to this one, the City of Ottawa Act enacted last year by the Legislature.

There's no other legislation that's amended by this bill and there's no opposition that I'm aware of to the bill. There has been a significant public hearing process that was entered into by the borough of East York over the last year. It held a series of public meetings which were widely circulated and widely attended. I believe of all of the people who spoke there were only three people in opposition to that, one of which I believe has been satisfactorily resolved, and even then the opposition was to the proposed draft bylaw, not to the bill itself. Those are my submissions.

**The Chair:** Thank you very much.

1030

**Mr Jim Wilson:** I would ask the solicitor perhaps to explain what I'm not clear on, the enforcement provisions, in particular those of inspectors. Are these municipal bylaw officers?

**Mr Annibale:** They would be bylaw enforcement officers. Also appointed are the provincial offences officers under the Provincial Offences Act.

**Mr Jim Wilson:** So that's what it means in the explanatory notes where it says "provincially appointed inspectors." These aren't the new smoking police appointed by the province? You will be using the existing bylaw.

**Mr Annibale:** The local enforcer, that's correct.

**The Chair:** Further questions?

**Mr Mills:** We have no objections.

**The Chair:** Are we then ready for a vote?

Sections 1 to 7, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

#### TOWNSHIP OF UXBRIDGE ACT, 1992

Resuming consideration of Bill Pr56, An Act respecting the Township of Uxbridge.

**The Chair:** Are we ready to resume discussion on the township of Uxbridge bill? We have now distributed the amendments. It's now clauses 3(d.1) and (d.2).

**Mr Mills** moves that section 3 of the bill be amended by adding the following clauses:

"(d.1) aggregate as defined in the Aggregate Resources Act, brought on to a pit or quarry operating under a licence or wayside permit under that act as part of the operation of that pit or quarry;

"(d.2) any rehabilitation activity in a pit or quarry licensed under the Aggregate Resources Act and specifically addressed on the approved site plan."

Any discussion of the amendment?

**Mr Ron Eddy (Brant-Haldimand):** I don't understand why the numbers have changed. Why are they sub-clauses to 3(d)? Am I reading it correctly? We have a (d) and an (e). I don't understand why it's (d.1) and (d.2) rather than (f) and (g).

**The Chair:** Perhaps counsel can address that.

**Ms Laura Hopkins:** The placement of the clauses is the more conventional placement for these kinds of clauses in these kinds of bills. What this does is make this bill look substantially the same as similar bills that have been prepared



for other municipalities. When the bill is reprinted at the third reading stage, the numbering will be the more conventional kind of numbering, but there's no particular magic to proposing these things as fitting in between (d) and (e) as opposed to adding them to the end of the list.

**Mr Eddy:** I still don't understand why it's (d.1) and (d.2). What connection does it have with (d) as printed? Will it be different when it is printed?

**Ms Hopkins:** It will be different when it's printed, and all that does is say that it fits between (d) and (e).

**Mr Eddy:** That answers it. Thank you.

**Mr Hansen:** I had the same problem as Mr Eddy at the very beginning. I wondered how we skipped from (d) to I think it was (f) before. I've learned the alphabet a little differently.

**The Chair:** I guess the alphabet is mutated for legal language.

We have the amendment. Are we ready for a vote on same? Shall the amendment carry?

Motion agreed to.

**The Chair:** Are we ready for a vote on the bill?

Sections 1 and 2 agreed to.

Section 3, as amended, agreed to.

Section 4 agreed to.

Section 5, as amended, agreed to.

Sections 6 to 8, inclusive, agreed to.

Preamble agreed to.

Bill, as amended, ordered to be reported.

1040

#### BIKUR CHOLIM ACT, 1992

Consideration of Bill Pr48, An Act respecting Bikur Cholim.

**The Chair:** We are now ready for a discussion of Bill Pr48.

**Mr Joseph Cordiano (Lawrence):** We are once again before you to deal with the matter that was not dealt with the last time we were here. With me once again is Steve Shulman, who's legal counsel for Bikur Cholim, and Selma Elzas, who's also here this morning.

Mr Chairman, perhaps you can guide me on this. I don't know whether it's necessary to run through what we ran through last week and do a summary or to go into the new area of concern with respect to the exemption we are requesting on behalf of Bikur Cholim with respect to property taxes.

This legislation is certainly not ground-breaking or precedent-setting. This has been done before for a variety of other non-profit groups, charitable organizations. I believe we are fully within our mandate, as this committee is, to bring forward this legislation, and I believe it's essential that Bikur Cholim be granted its exemption so it can function. These are very difficult economic times and every last dollar makes a big difference in the community. So I would urge you to move forward with this.

I believe Metro council is represented here today and will put forward its views, but I turn it over to Mr Shulman, if you have anything further to add.

**Mr Jim Wilson:** As I wasn't here at the last meeting of this committee, perhaps you could give a very brief summary.

**Mr Cordiano:** Yes, I will do that. Bikur Cholim is a Jewish women's charitable group which provides assistance to the sick and elderly. They are a charitable organization which operates mainly with volunteers. They provide programs such as Meals on Wheels for the elderly, special meals to hospital patients, hospital visits and home visits. They do a variety of things with the sick and the elderly. Bikur Cholim's property on Bathurst Street—pardon me, Coldstream Avenue is the exact location—will provide a hostel for out-of-town families who are visiting with the sick. That's what this exemption is for, for that hostel.

**Mr Jim Wilson:** Where is Coldstream Avenue exactly?

**Mr Cordiano:** Coldstream is in my riding, the riding of Lawrence.

**Mr Jim Wilson:** I gathered that.

**Mr Cordiano:** The city of North York obviously, the Lawrence and Bathurst area. I am not sure if you're familiar with it, Mr Wilson, but that's a pretty central location.

**Mr Steven Shulman:** Just to add a few points to Mr Cordiano's comments, most of you were here a couple of weeks ago so I'm not going to go through everything. The point was made that the function of the property is as a hostel for people who come from out of town to stay with the sick, especially children, who are receiving hospital care here in Toronto. That's one aspect of the property itself.

But as Mr Cordiano said, the organization, Bikur Cholim, also has a much wider function in terms of offering social services unique to the community, that are not filled by any other agency in the community. That's important; the uniqueness of this organization and its importance in terms of offering social services is something for this committee to consider. Maybe for a better view of what it does, Selma Elzas is the coordinator of Bikur Cholim, and she works with the people whom the organization serves on a day-to-day basis. I think it's appropriate for Ms Elzas to provide you with some insight into the organization and the property.

**Mrs Selma Elzas:** Bikur Cholim really means "visiting the sick." However, because of the nature of the growing need for social services to the elderly, to the emotionally impaired and handicapped people in our community, the very narrow definition of visiting the sick has over the years broadened to the scope that we now experience in terms of functioning as a social agency in and of itself. I'm the only paid staff member. We operate solely with the use of our volunteer corps, because our budget does not allow for any paid staff people.

The mandate of the organization is to provide practical support for members of the Jewish community for whom existing programs and services are inadequate or inappropriate. Bikur Cholim is called upon to help meet needs created by financial crises, special-needs children, long-term



illness of a parent, specialized health and educational service requests and a multitude of needs of the ever-growing aged population in our community.

Another main focus of the agency is volunteer visitation in a variety of settings, including hospitals, nursing homes and those requiring visitation in their own homes. Our organization is well known in the social service community for its unique front-line service, including attention to emotionally impaired and physically disabled individuals whose service provision from mainstream social agencies falls short of meeting their needs.

One of our programs, which was alluded to earlier, is our accommodation at 506 Coldstream Avenue. It's really second to none in providing housing for patients and families of patients receiving medical treatment in Toronto. Over the past year, our patients have included children suffering from severe orthopaedic disorders, genetic diseases, accident trauma victims who are coming here for surgery, and children with brain tumours.

Our facility provides fully furnished, equipped apartments to ease the stay for families who are facing the stress of a medical ordeal and, most often, of a life-threatening medical condition.

Bikur Cholim's many areas of service to the community, including its hostel, are funded by private donations. None of our clients receiving any of our services is ever charged for any of the services they receive. We receive no government funding of any kind.

Over the past year, due to the current economic crisis, programs in the following areas have been reduced: our short-term Meals on Wheels program has been modified; our home support services, which include homemaking and cleaning services to the elderly, have been reduced, and monthly financial aid to needy families has had to be re-evaluated in all cases and cut back in many.

As you can appreciate, the impact of paying taxes in our situation, with an organization already severely affected by the economic crisis, would be a serious threat to the continuity of a unique and very special service supporting people who are living in the community.

We are currently operating at a deficit and there's no question that the payment of taxes would sharply impact on the continuity of our service in a variety of areas across the board. Our goal is to maintain our unique service, which provides personal, compassionate, supportive help to an ever-growing population of elderly people and an ever-growing need for surgical support in the nature of our hostel. To do this and to continue to provide accommodation for those facing overwhelming medical odds, we are presenting this request at this time.

**The Chair:** Do you want to question the applicants, Mr Wilson?

**Mr Jim Wilson:** I think so. Is there objection to this bill?

**The Chair:** There are, I understand, some strong points of contention from Metropolitan Toronto and the Ministry of Municipal Affairs.

**Mr Jim Wilson:** Is Metro represented here? I have a number of questions.

**The Chair:** Of the applicants or of the objector?

**Mr Jim Wilson:** I don't know how you want to proceed. For instance, the question I was going to ask, having read Metro's guidelines for these exemptions, was whether the applicants feel they meet these guidelines and what the discussion has been with Metro. Perhaps we should have Metro speak first; maybe that will clear up some of the questions I have.

**Mr Jack Horsley:** I'm from the legal department of Metro Toronto. Mr Ivan Araujo is from the treasury department and is available for questions too.

I should tell you first of all that there has been no specific report to Metro council with respect to this bill. What I have done is collect the council reports I think are relevant to the issue, going back until 1985, and they're in this book which I have given to the clerk.

In a nutshell, the position of Metro is that assistance to non-profit organizations should be by way of grant, and not by tax exemption as it has been in the past and on an ad hoc basis in accordance with criteria which no one understands. That position has been council policy since 1985.

If I can refer you to tab 4 on page 41, the most recent instance of council dealing with this policy, there are four recommendations. The first is "that the sundry-at-large program of grants to offset property taxes be eliminated." The second, which in my submission is the nub and really the totality of the policy of council, is "that Metropolitan council adopt a policy that all financial support for non-profit organizations be provided through the established Metropolitan Toronto grants program according to the objectives, criteria and priorities set, from time to time, by Metropolitan council." Recommendation 3 refers to "future special requests for...private members' bills" and the chief administrative officer reporting. That has not been done in this case.

1050

By way of background, the genesis for this 1992 report arose out of an application by the Korean Canadian Cultural Association of Metropolitan Toronto. That report is under tab 3, which starts on page 31. The council, in considering the position it might take on the application for a special exemption by the Korean Canadian Cultural Association, adopted the report of the commissioner of finance, which is enclosed in here. You'll find that report on page 35.

At the bottom of page 35 there are two recommendations and two more over the page, for four all together. It's my submission that the recommendations at the bottom of page 35 would reflect the policy of Metro council with respect to this application.

The first recommendation is that "council, in accordance with current policy, not support a private member's bill in the Ontario Legislature to exempt the Korean Canadian Cultural Association."

The second recommendation, one I can come back to later, is "that the province of Ontario be requested to amend any enabling private member's bill to provide that the exempt assessment remain on the assessment rolls for the purpose of apportioning upper-tier levies." I'll come back to that.

The third part of the three-pronged recommendation is "that in the event that Metropolitan Toronto taxes remain



payable, the Korean Canadian Cultural Association be advised to proceed with an application for a grant to offset the Metropolitan share of property tax in accordance with current program policy related to such grants."

That policy is set out very succinctly on page 36, that property tax exemptions beyond those in section 3 of the Assessment Act only be supported, it states here, "for major facilities that form part of the infrastructure of the community and where council believes a long-term financial commitment from the municipal level is warranted, eg, the YMCA, YWCA, Massey Hall and Roy Thomson Hall." That's the policy with respect to supporting this kind of bill, and it's my submission that under that policy council would not support it.

With respect to grants, there are a number of criteria listed, (a) to (e), as to when Metro council would make a grant. Those criteria, I should say, are superseded by the 1992 report. The 1992 report says that when we evaluate an application for a grant, we won't focus strictly on the tax situation. We'll look at the totality of the organization and consider that within the context of our grants policy, taxes being one element of their expenses.

I refer you briefly to page 47, where it refers to the focus under the new policy as opposed to meeting criteria for grants. It will focus instead on:

"(a) a coordinated review of grant requests from other similar organizations;

"(b) the organization's overall financial situation;

"(c) Metropolitan Toronto policy with regard to the services provided by the organization, and

"(d) the municipality's available budgetary resources in support of specific service program areas."

The focus is broader. The criteria are established. Applicants, as opposed to getting a one-time tax exemption which lasts for ever, are required to come in for a grant and have their needs assessed against other similar organizations. The attempt is to have some equity, so that organizations in similar circumstances are treated similarly.

I would refer you briefly to some of the dollar impacts of exemptions. On page 39 there is a list of exemptions by way of private bills that our treasury department is aware of from 1980 through 1990. Those exemptions relate in total to about \$11.6 million in assessment and \$4.3 million in terms of 1990 tax. To put that in a broader context, I can refer you to page 52, where it demonstrates the effect of exemptions within Metropolitan Toronto and the number of dollars that are involved and the various sorts of exemptions.

The reference to the apportionment in the Korean recommendations adopted by council—you'll note in the bill you have before you that under section 3 it states, "For the purposes of subsection 244(8) of the Municipality of Metropolitan Toronto Act, the exemption from taxation granted under section 1 is deemed to be an exemption provided under section 3 of the Assessment Act." If North York were to pass a bylaw, the effect of that is to remove the assessment, in relation to the property covered by the bylaw, from the assessment rolls. In determining the apportionment, based upon the relative assessments between the various municipalities, the cost of the grant or the exemption would be shifted from North York and spread across

the five area municipalities. That burden relates not only to the Metro share but to the school board's share.

**Mr Cordiano:** Could I ask a question now, Mr Chairman?

**Mr Horsley:** I just have one more point and then I'll finish. On this point—I hesitate to mention it—but there was a Bill 229, introduced by the previous government, that died on the order paper. Under that bill there was a proposal for enabling legislation whereby area municipalities could grant exemptions. The effect of the exemption, however, related to the taxes of that area municipality. If the taxes of the upper tier or the school boards were to be affected, then there would be a requirement that the upper tier and/or the school board pass resolutions and forward them to the area municipality, then the area municipality could enact a bylaw. If this bill is enacted the way it is, the effect would be that the council of North York would effectively exempt the organization from the Metro portion of the taxes and the school board portion of the taxes.

My submission on the way to deal with this, if the committee is so inclined, is to go back to what was proposed in Bill 229, whereby instead of having a section like the section 3 you have, it was, "An exemption of land under this section shall not be interpreted as an exemption under section 3 of the Assessment Act." The effect of this would be that the property would remain on the assessment rolls for the purpose of the apportionment and that the council passing the bylaw would effectively bear the cost of that.

Those are my submissions.

1100

**Mr Cordiano:** I have a whole lot of things to add to that. It's my contention that what we're really dealing with here is a question of powers between governments and the ability to take the burden for the exemptions. Obviously Metro does not want to be burdened with something that the city of North York would then have to pass the bylaw for, affecting it directly by what North York has effectively done to exempt this organization from paying taxes.

The real purpose of this, once again, is to help the organization involved, and whether it's one of the upper-tier levels of government that's doing that or the city of North York with respect to school taxes that assists in that effort, it's really this committee that ultimately has to decide whether this organization is deemed worthy of that and merits the exemption. The rest is a lot of politics. It goes far beyond this little example of it: This struggle between Metro council and the local councils will continue, gentlemen; it's something that's been ongoing for some time now.

It really comes down to this: This organization serves well beyond the borders of North York, serves residents who come from all over the province, actually. It's not going to allow just the city of North York to benefit. It happens to be located in my riding, in the city of North York, but I put to you the argument that the people who will be served will come from throughout the province. It's a province-wide question. You've heard about the kinds of services that are provided, and they are unique. They're particular to the community and therefore are very essential, and they will serve the broader regions of Ontario.



It goes well beyond just one local government and therefore I think Metro should look at it from that point of view. This is not precedent-setting. The policy would have to be one that's effected by arbitrariness; that the argument has to be made that this organization serves well beyond the boundaries of the city of North York. I think that case has been made, so I cannot see the reasons for the objection to this by Metro council. I find it hard to accept.

**Mr Jim Wilson:** While I respect your views, Mr Cordiano, it seems to me that with all the downloading that previous governments and this government have done on municipalities—I would agree that this committee clearly has the authority to grant this exemption, but what I don't understand is why we're being asked to do that, to make a decision that will burden upper-tier municipalities, burden other layers of government, when they're elected to take these decisions.

Metro council, I gather, is objecting to this. I guess what I need to know is whether the group approached Metro council about the idea of applying for a grant rather than this permanent tax exemption, which is what these private bills end up being. I agree with the principle: The group needs help and it does great work. I'm the Health critic for my party and I think it's just great. Putting that aside, though, I can see that what Metro is trying to stop is—I would be highly resentful of a group in my riding, for instance, being turned down maybe by county council and then coming here and asking for the exemption. I'd like to know a little more about the history. It seems to me we're being put in the position of having to make a decision where this may have been objected to by Metro, so perhaps the solicitor can help here.

**Mr Shulman:** To give you an idea of the history of this, the property we're talking about has been used since 1990. At that time, the organization appealed its taxes and thought there was an avenue for exemption under the Assessment Act. They were wrong about that. The appeal wasn't heard; they were told flat out that there could be no exemption. At that point they tried to get the help of a tax agent and then us. And if you're wondering where they're getting the money to pay a solicitor, we're not being paid for this; we're trying to help out this organization.

We started the process in the late fall of 1991, conferring with legislative counsel, trying to go through this step by step, and were informed that the way to go about it was to confer with the city of North York, which at that time was to provide them with notice.

To go back for a second, on your question as to the grant there has not been an application for a grant made to Metro council. At no time has Metro council specifically considered this organization at all, and I want to address that a little further on in the history.

The advertising requirement was met, and then it was circulated among the interested ministries.

In the spring we were informed that we would first of all have to give notice to the school board and to the city of Toronto, which we did by letter. That was approximately two months ago. At that time we did not receive any response whatsoever from either of those two bodies. We were here

two weeks ago, and a representative, Mr Araujo, who is here, came from Metro and stated that Metro had not had enough time to consider this and Metro would need another seven to 10 days to consider the matter. That was acceptable. We made our presentation and the matter was adjourned.

Our concern and Bikur Cholim's concern is that North York has been very patient in terms of not enforcing the payment of property taxes, waiting to see what would happen here. Thankfully—I guess it's cutting into your summer holidays—the Legislature is in session, and this committee is sitting to hear this today.

I contacted the treasury department of Metro, a Mr Brooks, last week, because I had not heard any response from Metro once I was informed that it would be before this committee again today. Mr Brooks did not have a response. This was on Friday. He said Mr Horsley would be dealing with it. Yesterday I received a call from Mr Horsley and spoke to him in the afternoon, and the response I received from Mr Horsley was, "This is Metro's policy." Mr Horsley at that time did not know anything about the organization; that's not through his own fault, but he didn't know anything about the organization and I think it was a clear policy decision without considering the merits of this particular application.

One thing I would like to point to is that under subsection (3) on page 42, I think this committee should be aware clearly that Metro council has opened the door here to private legislation such as this, although it stipulates that special requests should be made to Metropolitan council. Unfortunately the first we were informed of this policy was yesterday, and when I was informed of the policy over the phone it was that Metro council is against any type of legislation such as this, but what I see in front of me today indicates that that's not the case; there is an avenue open to go about getting Metro council's approval. So it's not a cut and dried—

**Mr Jim Wilson:** That was my question. I understand your frustrations with process and I understand the merits of your group, but as a legislator I have to set that aside for a minute and talk about the principle of us making a decision of removing you from their assessment rolls when we're not going to send Metro the cheque in lieu of this.

1110

**Mr Cordiano:** Can I add something? I would agree with you, Mr Wilson, had this not been done on a regular and consistent basis. This is not a precedent-setting measure we're discussing here. We have done this in the past.

What I have difficulty with at present is what really amounts to an ad hoc policy on the part of Metro, something that I believe isn't quite consistent in its application to all groups. If Metro's now saying that groups should not apply for that exemption—or I think what you said was that they can still apply for an exemption but would have to meet certain criteria.

I think the criteria are being met here. They obviously haven't been looked at in detail because, as I pointed out earlier, this establishment serves a much broader community within the city of North York. I believe that's one of the criteria.



If we look at the exempted organizations—page 83 of this report—quite a wide range of institutions have received exemptions. One could argue that there are bigger, better-financed organizations, but you have to look at what they're serving: the broader community. Is this kind of exemption being applied for by someone other than Bikur Cholim that also provides such a service? That really hasn't been made clear by Metro, so that's why I have difficulty with the arguments that are being presented today.

**The Chair:** Mr Horsley, in your submission you stated that Metro wouldn't have an objection as long as the exemption from tax was at the local municipal level and that the tax rolls remain for the upper tier; is that correct?

**Mr Horsley:** Yes. I'll respond to that. I'd like to clear up some confusion that I think exists.

**The Chair:** I'm just wondering if you had discussed that with the solicitor.

**Mr Horsley:** No, I haven't. What you're doing here is proposing to give North York the power to pass a bylaw. If that bylaw does not affect Metro, then Metro is not going to be a dog in the manger about that. If North York wants to pass a bylaw, fine. The objectionable part is section 3: It's the effect of that bylaw on the apportionment, and not just Metro itself, because Metro does a levy; it gets its money whatever happens. It's the shifting of that burden to the other five area municipalities that is part of the problem.

**Mr Cordiano:** What was done in the past?

**Mr Jim Wilson:** Could we maybe move to whoever is putting this motion forward and discuss it in general terms? It would have the effect of exempting Metro and school boards from that. I don't know who is putting this forward.

**The Chair:** That's fine. Could we have this amendment tabled?

**Mr Hansen:** I have a question; I had my hand up for a long time. I agree with Mr Wilson. I can see that this seems to be a family problem here in Toronto, and the family members haven't sat down and said, "Why should the five areas have to share the tax burden?"

It looks like the last exemption was given back in 1987, according to the chart on page 39. There's been a new direction taken by Metropolitan Toronto and we as a government have to take a look; if there are new directions taken, that we're taking new directions as a government. It looks like Metro is taking them, with the hard times we have out there. We've all had to take different directions.

This is what I see by listening to the argument on both sides. I also realize you would fit in with these other organizations on 39. I'm not denying that your organization is doing a good job in North York and across Toronto, but we have to take a look at what Metropolitan Toronto is saying also: What do we do in this circumstance? Maybe we have to take a new direction.

**Mr Cordiano:** But is Metro prepared to apply the policy evenly throughout all of these institutions? As legislators in Ontario—and I would ask the government this—is it not a question of more fairness and consistency in applying a policy throughout? What's the position of the Ministry of

Municipal Affairs on this? Are they saying today that whatever happened in the past will continue to exist, but from now on this policy will apply and they agree with Metro Toronto? Quite frankly, people are confused out there.

**Mr Hansen:** I might add that I feel the next level of government should have been satisfied before it came to the provincial level.

**Mr Cordiano:** This is the committee in which private bills have traditionally been entertained; correct me if I'm wrong. It is not out of order for this committee to look at something like this.

**Mr Hansen:** Yes, but when there's an objector we have to look at it in a different light.

**The Chair:** Mr Cordiano, you're bringing up a very valid point, but I'm not sure that this committee at present is capable of dealing with it. This isn't the Canadian Opera Company bill but rather the Bikur Cholim bill. You're asking about a policy issue as opposed to a specific and very small piece of legislation.

**Mr Jim Wilson:** It's not very small; that's the whole point. I don't very often agree with the government, but unfortunately this group is caught up in a much larger debate. I feel very sorry for you; in fact, because of your frustration, I'm almost willing to say we'll punish Metro in this case, because they didn't do their homework and didn't treat you very well. I agree that this is like family court. I gather the reason you haven't gone for the grant or had further discussions with Metro was that you weren't aware of it and Metro wasn't very cooperative in telling you. I feel sorry for you there, but it is a bigger issue. I don't think the Korean Canadian Cultural Association was granted by this committee, because there haven't been any bills passed since 1987, I understand. I'd be interested to hear from the government on that.

**The Chair:** Mr Mills, are you ready to speak?

**Mr Mills:** I understand there are two amendments coming. I also have a motion to make myself, but before I do that I'd like to say a couple of things.

The policy of the Ministry of Municipal Affairs has been that the consent of the upper tier and the school board is to be obtained if a bill provides for the exemption of their levies. That is consistent, and I have evidence here of another organization that came and they were very much aware of that.

I'd also like to say that last year this committee agreed to set aside a session to deal with the criteria to be used for exempting organizations from property taxes. That committee didn't get off the ground, so perhaps the issue of the criteria should come before this committee again.

Having said all of that, I would like to make a motion that section 3, "For the purposes" etc, be deleted from this bill before we go to the amendments that the members have.

**The Chair:** Mr Mills moves that section 3 of the bill be deleted. Discussion?

**Mr Eddy:** I realize the purpose of the exemption, but I think an amendment to it would be more appropriate. It would seem to me more appropriate that such exemptions



should be granted on approval by Metro council and the school board.

First of all, the bill doesn't give the exemption. It allows the local elected legislative council to deal with that matter: It may or may not. We have to remember that both the board of education and now Metropolitan council have directly elected members and are legislative bodies. I see the importance of allowing that and indeed giving the local council the right to exempt the total taxation, but then include the assessment in the upper tier and the school board exemption; in other words, they still getting the money if they disagree.

I would prefer to see section 3 amended rather than deleted. I think it would be a better solution.

1120

**Mr Jim Wilson:** I agree with what Mr Eddy just said, because I think it gives the applicants here some recourse. The problem I have with it, though, is that Metro's submission is that it would prefer that the land always remain on the assessment roll and be dealt with through grant purposes; your suggestion I gather, Mr Eddy, would be that they would still need approval for the exemption from Metro.

I guess I'm worried that it doesn't leave the group with any insurance that Metro will ever deal with this issue. Do we have any politicians from Metro where we can get the assurance that they'll deal with it? You may just end up being put through a whole pile more hoops for the next couple of years. Metro may come back and say: "No, we've objected to this. We're not going to give you an exemption, but we might give you a grant." Of course, I guess that would solve the problem.

**Mr Cordiano:** I don't think we can answer that, Mr Wilson.

**Mr Jim Wilson:** Has anybody discussed this with anybody at Metro?

**Mr Horsley:** I don't know whether I can answer as to how council will deal with it. I can assure the committee that there can be a report to council, but what it does with it I don't know.

**Mr Jim Wilson:** I understand that.

**Mr Shulman:** Before you make that suggestion of an amendment to section 3, Mr Eddy, that's what I was just discussing with Mr Cordiano. That kind of amendment, which would ultimately give the school board and Metro council the right to say specifically in this case whether the exemption should go through affecting them, I think is the best of both worlds. At least this deals with your concern, an understandable concern, about burdens being dumped on different tiers of government by others. At the same time, it gives this organization the opportunity to make its case before the local boards. As well, I think it is in accord with Metro's policy, recommendation 3 on page 42, that all future special requests for private members' bills go to Metropolitan council. So we're keeping with Metro's policy, we're giving an opportunity for the organization to go ahead with that and the organization can complete its case without being totally defeated here today.

**Mr Eddy:** I wonder if we could have a reaction from Mr Mills to that suggestion. I would think it meets the

requirements or the views of Municipal Affairs; that's awfully important, of course. If that's the case, I wonder if we could request that the wording be prepared.

**Mr Mills:** It doesn't meet the requirements of the Ministry of Municipal Affairs. The organization always has the opportunity to go to Metro for this grant, but the only thing they are probably hesitant about is that the grant is for one year at a time and this is in perpetuity. The ministry is not prepared to support your amendment.

**Mr Cordiano:** I just want to make one point. I think the point is taken, Mr Mills, that the organization can apply for a grant; that can happen at any time. But the point is that it will no longer have recourse for a tax exemption once this bill is passed in the manner in which you've suggested, to delete section 3. That will never be a possibility unless a new bill is introduced to this committee.

What I'm hearing from the government is that you have a new policy which, simply stated, says, "We're not going to allow any group to come before us and get a property tax exemption."

**Mr Mills:** It's not a new policy at all. This is the policy, and there's evidence that this was the policy previously with other organizations that have applied.

**Mr Cordiano:** What is that? I'm sorry, it's unclear to me.

**Mr Mills:** We always ask that the consent of the upper tier and the school board be obtained, providing for the exemption of the levies. We're making decisions for Metro here and the government is not prepared to do that.

**Mr Jim Wilson:** To be polite, perhaps Mr Eddy could be given the opportunity to re-explain to the parliamentary assistant what his suggestion was—

**Mr Mills:** I know what it is.

**Mr Jim Wilson:** —because I don't see any inconsistency between what you just said and what Mr Eddy suggested.

**Mr Mills:** I heard it.

**The Chair:** Please allow Mr Wilson to finish.

**Mr Jim Wilson:** You want permission from the other levels of government before an exemption is granted. Isn't that what Mr Eddy suggested? Unless I'm losing my ability to deal with logic, which is quite expected around here, it seems to me you're on the same wavelength. Maybe we could come to some agreement if we took a five-minute recess, Mr Chair.

**The Chair:** Are you calling for a five-minute recess?

**Mr Jim Wilson:** Yes.

**The Chair:** That is probably a fairly helpful suggestion. We don't seem to be too terribly apart on these matters, so why don't we recess for five minutes?

The committee recessed at 1125.

1145

**The Chair:** I call the committee to order. First Mr Mills.

**Mr Mills:** I'm going to withdraw the previous motion I had on the floor. I believe we have reached some consensus of opinion and agreement to follow some other lines. I'll leave that for the Chair to direct.



**The Chair:** Committee members, I understand that we have a substantive agreement about the amendments. However, due to the nature of those amendments, it may take some time to draft them. I am proposing that we have a very brief meeting, dependent of course upon the approval of the House leaders, tomorrow afternoon, so that this bill can be finally passed.

**Mr Mills:** Mr Chair, I appear at a cabinet committee on social policy tomorrow afternoon. I can't be here. It's from 3:30 to 8 o'clock.

**The Chair:** However, with the amendments, your ministry has no objections?

**Mr Mills:** We'd have to finalize them, but I don't see any difficulty in that.

**Mr Jim Wilson:** Mr Chair, for what it's worth, I have a scheduling problem tomorrow afternoon too. Could we do it first thing in the morning?

**Mr Mills:** We have members' time tomorrow. We'd have to do it earlier.

**The Chair:** Is Monday afternoon possible instead of tomorrow afternoon?

**Mr Jim Wilson:** Sure.

**Mr Mills:** Agreed.

**Mr Eddy:** I had another point. I think we have substantive agreement at this point in time that any exemption be—in the correct words, of course—subject to approval by the other legislative bodies, Metro council and the school board. But I'm wondering if it would be possible to also have wording providing for "or alternatively" the exemption of the total by the local council but leaving, as was suggested by the Metro representative, the total assessment in. Maybe that's too complicated, but I'd just like to leave that suggestion.

**Mr Melville:** I think that's what we'd like to achieve, to leave assessment out of it and just deal with an exemption from the property and school taxes.

**Mr Eddy:** Thank you.

**The Chair:** We're looking at meeting Monday afternoon, dependent on the House leaders' consent or, failing that, at the next regular meeting of this committee. No other business? We are then adjourned.

The committee adjourned at 1148.







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## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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- Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)
- Dadamo, George (Windsor-Sandwich ND)
- \*Eddy, Ron (Brant-Haldimand L)
- Farnan, Mike (Cambridge ND)
- \*Hansen, Ron (Lincoln ND)
- Jordan, W. Leo (Lanark-Renfrew PC)
- \*Mills, Gordon (Durham East/-Est ND)
- \*Ruprecht, Tony (Parkdale L)
- Sola, John (Mississauga East/-Est L)
- Sutherland, Kimble (Oxford ND)
- \*Wilson, Jim (Simcoe West/-Ouest PC)

### Substitutions / Membres remplaçants:

- \*O'Connor, Larry (Durham-York ND) for Mr Sutherland

\*In attendance / présents

### Also taking part / Autres participants et participantes:

Melville, Thomas S., solicitor, legal services branch, Ministry of Municipal Affairs  
O'Connor, Larry (Durham-York ND)

**Clerk / Greffier:** Decker, Todd

### Staff / Personnel:

Hopkins, Laura, legislative counsel



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## Official Report of Debates (Hansard)

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Standing committee on  
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Deuxième session, 35<sup>e</sup> législature

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Mercredi 15 juillet 1992

Comité permanent des  
règlements et des projets de loi  
privés



Chair: Drummond White  
Clerk: Todd Decker

Président : Drummond White  
Greffier : Todd Decker



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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 15 July 1992

The committee met at 1005 in committee room 1.

**The Chair (Mr Drummond White):** I'd like to call this meeting of the standing committee on regulations and private bills to order.

### MISSISSAUGA REAL ESTATE BOARD ACT, 1992

Consideration of Bill Pr46, An Act to revive the Mississauga Real Estate Board.

**The Chair:** Margaret Marland will be presenting Bill Pr46, An Act to revive The Mississauga Real Estate Board.

**Mrs Margaret Marland (Mississauga South):** Thank you. Good morning, Mr Chairman. We have with us Mr Murray Box from Pallett, Valo, who will answer any questions you have on the bill. It is a routine bill to revive the Mississauga Real Estate Board.

**Mr Murray Box:** In the spring of 1986 the board moved its offices and didn't update its records with the ministry, so when the Ministry of Consumer and Commercial Relations sent out notices, which it does to corporations every four years or so, the board didn't receive one and, as a result, didn't file the notice with the ministry and was subsequently dissolved in due course. That wasn't discovered until May of this year when we were retained to do some work for them. We discovered that they had been dissolved in 1987 and since we were beyond five years, the only way in which to have the board revived was to apply for the passage of a private member's bill.

**The Chair:** Any questions? Are we ready for a vote?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

### BIKUR CHOLIM ACT, 1992

Consideration of Bill Pr48, An Act respecting Bikur Cholim.

**The Chair:** I'm sure we can proceed in the absence of Mr Cordiano, Mr Shulman, if you'd join us at the table.

As the committee will recall, An Act respecting Bikur Cholim was before us last week and has been before. I understand we have amendments, which substantively address the problems that arose during our hearings last week, that have been circulated and have not as yet been moved.

Mr Mills moves that sections 1, 2 and 3 of the bill be struck out and the following substituted:

#### "Tax exemption

"1(1) Despite parts VIII and XVII of the Municipality of Metropolitan Toronto Act, the council of the corporation of the city of North York may pass bylaws exempting from taxation other than local improvement rates, for municipal purposes of the corporation and for or in respect of school purposes, the land as defined in the Assessment Act, owned and occupied by Bikur Cholim, being the land and

the premises described in the schedule, so long as the land is owned, occupied and used solely for the purposes of Bikur Cholim.

#### "Condition

"(2) An exemption granted under subsection (1) may be subject to such conditions as may be set out in the bylaw.

#### "Direction re tax exemption

"(3) Despite parts VIII and XVII of the Municipality of Metropolitan Toronto Act, if land is exempted from municipal and school taxation under subsection (1), the municipality of Metropolitan Toronto may by resolution direct the corporation of the city of North York to exempt that land from taxation for the purposes of the municipality of Metropolitan Toronto.

#### "Delivery of resolution

"(4) The municipality of Metropolitan Toronto shall forward a copy of the resolution to the corporation of the city of North York.

#### "Further tax exemption

"(5) When it receives a copy of the resolution, the corporation of the city of North York shall by bylaw exempt the land from taxation for the purposes of the municipality of Metropolitan Toronto.

#### "Obligations on clerk

"(6) Upon the passing of a bylaw under this section, the clerk of the corporation of the city of North York,

"(a) shall notify the assessment commissioner of the contents of the bylaw; and

"(b) shall cancel all or part of the taxes levied on the exempted land from the 1st day of January, 1991, in accordance with the bylaw made under this section.

#### "Re cancellation of taxes

"(7) The provisions of section 421 of the Municipal Act apply with necessary modifications to taxes cancelled under clause 1(6)(b).

#### "Effect of exemption

"(8) The treasurer of the corporation of the city of North York may strike from the roll taxes that are exempted by reason of a bylaw passed under this section.

#### "Effect of exemption

"(9) An exemption of land under this act is not considered to be an exemption under section 3 of the Assessment Act.

#### "Retroactive bylaw or resolution

"2. A bylaw or resolution passed under section 1 may be made retroactive to the 1st day of January, 1991."

**Mr Steve Shulman:** I just have one point to make before the vote takes place. We are in agreement with everything in this bill. The only thing there's a problem with, from our standpoint, is the retroactivity section.

**The Chair:** There's a further amendment.

**Mr Shulman:** Yes.

**The Chair:** It would be an amendment to the amendment, which I'm sure will be moved by someone, which addresses those concerns.

Do we have anyone moving that amendment?

Mr Eddy moves that the motion made by Mr Mills be amended as follows:

1. In clause 1(6)(b), strike out "1991" and substitute "1990."

2. In section 2, strike out "1991" and substitute "1990."

We will deal with the amendment to the amendment first. Discussion?

**Mr Gordon Mills (Durham East):** I would just like to inform the committee and the other folks here that the Ministry of Municipal Affairs is opposed to this amendment and I won't be supporting it.

**Mr Ron Eddy (Brant-Haldimand):** Could I ask the reason? Maybe it's clear, but Mr Mills's amendment is providing for retroactivity to January 1991. This provides for one additional year.

**Mr Mills:** It's an exception to the retroactivity that's normal. You're going back to when the bill was introduced and no further.

**Mr Eddy:** I have a copy of the London-Middlesex bill that I've been reviewing, which provides for retroactivity. It's a draft bill. It hasn't been introduced yet. Well, yes, it has been given first reading.

The Sunday shopping issue certainly, when legislation eventually is presented, I would think it will be necessary to provide for retroactivity prior to the introduction of the bill.

**The Chair:** Further discussion?

**Mr Mills:** I'd just like to add for your information that for tax exemptions we've not done this before.

**The Chair:** Thank you. Mr Shulman, would you like to comment?

**Mr Shulman:** Yes. First of all, I'd like to say that on behalf of Bikur Cholim we appreciate the efforts of this committee to sit here for a third time to try to get something done. That's certainly appreciated on behalf of the organization.

In terms of retroactivity, I think I made the points—and sometimes the members here change—as to why we're going back to 1990 in our initial request for retroactivity in that although this may be—and I'll take your word for it that it's an exception to go back one year. The reason the organization is requesting this is that it actually commenced its efforts in 1990 to try to get an exemption under the Assessment Act and it realized without legal help at that time that it was going the wrong way. In 1991, efforts to move in this direction began and the advertising in fact began in 1991.

As well, the effect on this organization's finances—they have been told absolutely that there's no possibility of that exemption for 1990—would be very difficult to say the least and I don't think I have to go into that again. Miss Elzas, the coordinator, was here last week.

As you stated, Mr Mills, it's not unprecedented to have retroactivity; it's just a matter of going back one prior year. As well, the unique nature of this bill is that both

Metropolitan Toronto and North York have the say in terms of their own taxes, so ultimately it will be in their discretion. This committee is not putting any obligation on either of those two bodies to say yes to 1990; it's only permissive. So instead of this committee saying absolutely you can only go back to 1991, since it would be consistent with this committee's concern not to put any obligation not to make decisions for municipalities, to give the municipalities the option.

One further point: In every version of this draft that North York has received notice of, the retroactivity went to 1990. There's not been an objection from North York on that basis. As well, Mr Horsley is here today and Mr Horsley can speak to it, but he indicated to me that on behalf of Metro he would not be opposed to the 1990 language in this bill because it is only permissive; it does not place an obligation on Metro. Those are my submissions in that regard.

**The Chair:** Mr Horsley, any comments on the amendment to the amendment?

**Mr Jack Horsley:** I have no problem with it.

**The Chair:** Thank you. Mr Eddy?

**Mr Eddy:** If I may a second time have a final word, Mr Chair, thank you. I think the important point here is that it's enabling legislation. It enables the municipal councils to decide on the matter.

**The Chair:** Further comments on the amendment to the amendment? Are we then ready for a vote on the amendment to the amendment? All in favour? Opposed?

Motion negatived.

**The Chair:** On to Mr Mills's amendment. Mr Horsley? Comments on the amendment?

**Mr Horsley:** I have no objection to the amendment. In fact it's consistent, I think, with what I said last time.

**The Chair:** Thank you. Any discussion on the amendment? Are we ready for a vote then? All in favour of Mr Mills's amendment?

Motion agreed to.

**The Chair:** Passed unanimously. Are we then ready for a vote on the bill?

Sections 1 to 3 inclusive, as amended, agreed to.

Sections 4 and 5 agreed to.

Preamble agreed to.

Title agreed to.

Schedule agreed to.

Fee-waiving motion agreed to.

Bill, as amended, ordered to be reported.

**The Chair:** Thank you very much, gentlemen. Thank you very much, Mr Shulman, for spending so much time to deal with this issue. I know it's been out of your own courtesy and not out of a remuneration.

**Mr Shulman:** Thank you for your time.

**The Chair:** We are adjourned.

The committee adjourned at 1021.











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- Wilson, Jim (Simcoe West/-Ouest PC)

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Standing committee on  
regulations and private bills

Comité permanent des  
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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 28 October 1992

The committee met at 1003 in committee room 1.

**The Chair (Mr Drummond White):** I'd like to call this meeting of the standing committee on regulations and private bills to order. Respecting those who are here, especially Mr Sorbara, who's parked himself in the right position, we will amend the agenda slightly to allow Mr Sorbara to present first.

### FEFFERLAW DEVELOPMENTS LIMITED ACT, 1992

Consideration of Bill Pr62, An Act to revive Fefferlaw Developments Limited.

**Mr Gregory S. Sorbara (York Centre):** I appreciate the quick change in schedule. We'll be very brief. I'm pleased to introduce Earl Winemaker, who is a solicitor in the great community of Richmond Hill and my neighbour, at least in a professional sense, in that community. Mr Winemaker will be speaking to private member's Bill Pr62, a bill introduced by me dealing with the revival and resuscitation of Fefferlaw Developments. Without further ado, I simply ask Mr Winemaker to explain the circumstances of this bill. Then you'll want to proceed, I guess, to other business.

**Mr Earl Winemaker:** The corporation was incorporated for the sole purpose of acting as trustee for a group of beneficiaries. Management resided in my law firm for a period of years. Eventually they decided that \$200 a year was too much for management. One of the doctors volunteered to do it for nothing. He neglected to administer it by filing the tax returns, although he had employed an accountant.

When the property was sold, the solicitor for the purchaser didn't check, I guess, because the closing went through. The management reverted to my office when it became administration of the mortgage taken back. When we looked for the minute book, we couldn't find it and we did a corporate search. We'd had no notice of the revocation of the charter. At that time, in doing our corporate search, we found out that it had been revoked. We found that out and since have brought this application and sought Mr Sorbara's willing help, and we appreciate that.

**The Chair:** Thank you, Mr Winemaker. Are there any people present interested in this bill? Mr Parliamentary Assistant.

**Mr Gordon Mills (Durham East):** There are no objections.

**The Chair:** Are we ready for a vote then? Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

### GRAND RIVER HOME IMPROVEMENTS BUILDING PRODUCTS, SUPPLIES & SERVICES LTD. ACT, 1992

Consideration of Bill Pr52, An Act to revive Grand River Home Improvements Building Products, Supplies & Services Ltd.

**The Chair:** Next in order on the agenda is Mr Farnan. Is he present? Mr Farnan, are you ready, sir? Mr Farnan is presenting Bill Pr52, An Act to revive Grand River Home Improvements Building Products, Supplies & Services Act.

**Mr Mike Farnan (Cambridge):** I have with me here this morning my constituent, Mr Anthony Okafor, whose concern this is, and his solicitor, Stephen Orr Jackson. I'll pass you on to Mr Jackson.

**Mr Stephen Orr Jackson:** My client was operating this corporation himself in about 1982, at which time he was injured. Stopping actively being involved in business, he sent certain correspondence to the ministry, attempting to change the address. Apparently, the address was not changed on the corporate records with the ministry and consequently he was not given notice or did not receive notice of the dissolution. The dissolution came to his attention some time after the six-year period. The company has continued to carry on business and continues to hold land at this point in time. Consequently, we're in front of you to ask to have the company revived so it can continue with its business.

**The Chair:** That's a pretty straightforward explication. Are there any parties here who are interested in the bill? Mr Parliamentary Assistant.

**Mr Mills:** No objections.

**The Chair:** Any questions of Mr Okafor or Mr Farnan? Are we ready then for a vote on Bill Pr52? Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

### PETERBOROUGH SOCIAL PLANNING COUNCIL ACT, 1992

Consideration of Bill Pr59, An Act to revive Peterborough Social Planning Council.

**Ms Jenny Carter (Peterborough):** It gives me great pleasure to introduce Mr Bill Carruthers, a lawyer from Peterborough, who will answer any questions on Bill Pr59, An Act to revive Peterborough Social Planning Council.

**Mr William Carruthers:** The Peterborough Social Planning Council lost its charter for failing to make certain filings under the Corporations Information Act. This was completely through inadvertence. Our planning council is a small, voluntary corporation and until recently had no

full-time staff. We're simply asking that the corporation be revived so that we can continue our good work.

**The Chair:** Thank you, Mr Carruthers. Are there other parties here interested in this bill? Mr Parliamentary Assistant.

**Mr Mills:** No objections.

**The Chair:** Any questions?

**Mr Carruthers:** I wonder if I might ask the committee to recommend the remittance of the filing fee?

**The Chair:** An excellent request which I think will be dealt with after the bill is passed.

**Mr Carruthers:** Thank you.

**The Chair:** No further questions? Are we ready for the bill? Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

1010

**Mr Derek Fletcher (Guelph):** I'd like to move that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr59, An Act to revive Peterborough Social Planning Council.

**The Chair:** Mr Fletcher moves a waiver of fees. Any discussion? We're agreed? Thank you, Mr Carruthers and Ms Carter.

Mr Murdoch was present.

**Ms Sharon Murdock (Sudbury):** Murdoch with an "h."

**The Chair:** Mr Murdoch with an "h" is in the hall. Has Mr Miclash appeared as yet?

**Interjection:** I haven't seen him.

**The Chair:** We also have a similar problem in regard to Bill Pr44. The applicant will not be coming down, as it's quite a hike from Kenora. Could you present both those bills? I understand they've been researched.

**Mr John Sola (Mississauga East):** Okay.

Consideration of Bill Pr44, An Act to revive Pinecrest Community Association.

**The Chair:** Mr Daigeler, on behalf of Mr Miclash, Bill Pr44.

**Mr Sola:** No, John Sola.

**The Chair:** I'm sorry, Mr Sola. Excuse me.

**Mr Sola:** It's early in the morning.

**The Chair:** Mr Sola, on behalf of Mr Miclash, Bill Pr44.

#### PINECREST COMMUNITY ASSOCIATION ACT, 1992

**Mr Sola:** On behalf of my colleague Frank Miclash I would like to present for your consideration Bill Pr44, An Act to revive Pinecrest Community Association.

**The Chair:** We have the information in front of us. We have also the response from the ministry.

**Mr Sola:** The information is on the white sheets here.

**The Chair:** We're talking of a community group. There are no interested parties here, I understand. No. Any questions on the bill? Mr Parliamentary Assistant.

**Mr Mills:** We have no objections.

**Mr Ron Hansen (Lincoln):** I think this is a straightforward type of bill.

**The Chair:** We're ready for a vote then. Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

**Mr Sola:** By the way, should we not have on this the same move to absorb the costs or waive the costs?

**The Chair:** A waiver of fees. There seems to be some confusion. We know the noble intent of this group, but we don't know whether it was a registered charity or not. I'm wondering if you could undertake to ascertain that from Mr Miclash and we could bring that waiver perhaps to our next committee meeting or perhaps later this morning.

**Mr Sola:** Yes. I will undertake to find out from his office and I will get back to you shortly.

**The Chair:** Thank you very much, Mr Sola.

#### LAMBDA CHI ALPHA ALUMNI ASSOCIATION OF TORONTO (INCORPORATED) ACT, 1992

Consideration of Bill Pr67, An Act to revive Lambda Chi Alpha Alumni Association of Toronto (Incorporated).

**The Chair:** Mr Sola again.

**Mr Sola:** For which one?

**The Chair:** Bill Pr67, An Act to revive Lambda Chi Alpha Alumni Association of Toronto (Incorporated). The solicitor is Mr Pounsett.

**Mr Sola:** On behalf of my colleague Mr Murdoch, I would like to present Bill Pr67, An Act to revive Lambda Chi Alpha Alumni Association of Toronto (Incorporated), and I would like to ask the solicitor to explain the reason for this application.

**Mr Donald Pounsett:** I'm not only the solicitor, I'm also a member of this fraternity. This was the result of a failure, inadvertently, to file a response to a request for an information return in 1986. As has been done recently, the Ontario government sent out an unexpected request for a return. Unfortunately, the mail was not properly dealt with and as a result the fraternity did not make the filing. It was completely inadvertent and unfortunate, and I can only tell you that it won't happen again. We now have better systems.

**The Chair:** Thank you, Mr Pounsett. Are there any parties interested in the bill present? Mr Parliamentary Assistant?

**Mr Mills:** No objection, Mr Chair.

**The Chair:** Any questions? No. We are then ready for a vote.

Shall sections 1 through 3 carry? Agreed.

Shall the preamble carry? Agreed.

Shall I report the bill to the House? Agreed.

Thank you very much, Mr Pounsett.

**Mr Pounsett:** Thank you.



## NIPISSING UNIVERSITY ACT, 1992

Consideration of Bill Pr70, An Act respecting Nipissing University.

**The Chair:** We have now dealt with, I believe, all the outstanding bills with the exception of the one which was introduced yesterday, Bill Pr70. Ms Murdock.

**Ms Murdock:** Good morning. With me is Dr David Marshall, the president of Nipissing, and John Follis, who is the chair of the board of governors.

This is a bill that establishes Nipissing as a degree-granting institution. Right now it is a post-secondary institution and a university per se, but Laurentian University confers the degrees. This bill will give Nipissing the power to confer its own degrees.

At the request of some members of the committee, Jay Fleischer, from the Ministry of Colleges and Universities, and Frances Rowe, legal counsel for the Ministry of Colleges and Universities, are here, as are Stephen Hamilton, who is the president of the students' council at Nipissing University College, and Murray Green, who is vice-president of finance and administration. If there are any questions in regard to the contents of the bill, they are here to answer. Perhaps the president could cover it.

**The Chair:** Mr Marshall, would you like to speak to the bill?

**Dr David Marshall:** Only to indicate that this is a bill to establish a new university, but it's not done capriciously. This is done on the basis of 25 years of outstanding higher education in North Bay at Nipissing University College, 25 years of sound fiscal management and 25 years of academic excellence. I believe this bill will recognize those 25 years and will set up the conditions for another 25 years.

**The Chair:** Thank you, Mr Marshall. At this time, are there other interested parties present? None.

**Mr Hans Daigeler (Nepean):** This is obviously a different kind of private bill from the ones we just passed. In deference to the leader of the third party, perhaps he wants to make some comments first, but I have a number of questions I would like to ask as the critic for Colleges and Universities. I'm obviously pleased to see the university representatives here. I think the questions I will be asking arise out of an obligation towards the whole province and the implications of this decision for the university system as a whole.

I think this is a very significant moment. The way the system works here, sometimes important decisions get lost in the shuffle. I think this is one of them, so I do expect this to take a little while. I also would like to ask Mrs Murdock, is there anybody here from the Ontario Council on University Affairs? I had requested that somebody be here to speak.

1020

**Ms Murdock:** No, there is not. That is a body that advises the minister. It would be unprecedented for them to be called before this committee.

**Mr Daigeler:** Well, I'll speak to that a little later. I don't know how you wish to proceed, Mr Chairman, but if Mr Harris wants to make some comments at this point, I

have a fair number of questions. I don't know whether the members of the government have some questions. I'm in your hands.

**The Chair:** I think it's very generous of you to defer to Mr Harris. Mr Harris, do you have comments to make, as this is a significant move for your riding?

**Mr Michael D. Harris (Nipissing):** Very briefly, just to say that I appreciate the comments made by my colleague the critic for the Liberal Party on Colleges and Universities, and to indicate that he's quite correct: This isn't quite the same as some of the private bills we've dealt with this morning.

There has been wide consultation over a period of perhaps 10 years, significant involvement, unanimous support from the colleges and universities, from virtually every president of every university around the province, from the ministry, from the minister, from the parliamentary assistant, from all of those involved. I would not want the committee members to think that proceeding this way, by way of a Pr bill, means there have not been years of discussion, of analysis, of an understanding that this is in the best interests of education in northern Ontario, that this is in fact in the best interests financially for both Laurentian University and for Nipissing University. The fact that there are no objections but rather enthusiastic support from all of those universities, including Laurentian University, which Ms Murdock would represent politically in Sudbury, I think is unprecedented.

Obviously, this today is the culmination of years of sound management, years of excellent education, years of work, years of convincing over a period of time all those involved in the politics and the administration and the financing and the excellence of university education that this is truly in the best interests of all concerned.

I am pleased, obviously, to be here to support the bill. I believe it is quite appropriate that questions be raised and be responded to, quite confident that those questions have been asked throughout the years of process this bill has gone through and been answered by those experts along the way. Because it has proceeded by way of Pr bill instead of government bill, it might have been more appropriate to have a briefing ahead of time to answer the questions of the critic for the Liberal Party. However, I'm sure he will find the answers to his questions have been considered by all concerned.

I would appreciate consideration of all the questions, obviously. I would appreciate the committee understanding that this is not something that has been thrown together. This is something that has been worked on in a serious way for a number of years.

**The Chair:** Thank you, Mr Harris. Mr Fletcher, you had also a question—

**Mr Fletcher:** I have a few questions.

**The Chair:** Okay. Can we allow Mr Daigeler to go first?

**Mr Fletcher:** Sure.

**Mr Daigeler:** As I say, I'm flexible; at whatever point Mr Fletcher would want to put forward his questions and any other members of the committee. If I can ask some questions of the president first, then I would like to request



that the ministry representative be prepared to answer some questions.

I think it is important that the discussion that is taking place is on Hansard. That's why I disagree with the leader of the third party that it would have sufficed to answer some of these questions I have privately. This is an important public matter and has to be publicly recorded. The only regret I have is that it is not discussed in the House. It might have been preferable to have this as a government bill.

In any case, let me ask Dr Marshall, could you tell us again, the committee members and the public, because I think we represent here the public, why you wish to do this and why the present arrangement is not satisfactory, and secondly, what you see as your mandate if this bill passes.

**Dr Marshall:** The most general answer to that question is that after 25 years, affiliation has outgrown its usefulness. Nipissing is 25 years old, and like any child that grows to 25, grows to maturity, there comes a time when it has to go out on its own. I think it's recognized at the current time by both Laurentian and Nipissing that it has reached that time for Nipissing to go out and carve out its own identity.

There are some very practical reasons, I think. Some of them are administrative convenience. We have reached the point where we have our total governance and operational structure in place and have had for a number of years. For us to have to work with an institution that's close to two hours' drive away is becoming a tremendous burden on both places. Nipissing has grown in size to the point where it's becoming difficult for Laurentian to handle. For instance, regarding the grade reporting of some of our students through the ministry, they would have to upgrade their computer system.

There are morale reasons; perhaps the president of the student council could address those. There are identity issues that just go with being an independent institution. Less obvious, I think, are the reasons that relate to the ability of Nipissing to pursue its own special mission or to carve out its particular role in higher education in Canada, in Ontario. The particular role and mission that Laurentian University might wish to carve out for itself may not necessarily match that of Nipissing University College. That's quite correct and that's quite acceptable, but I think you could understand how the affiliation arrangement would certainly be in the way of Nipissing being able to pursue its own development paths.

There are some financial reasons why it's significant and important for us to go out on our own. Nipissing is proceeding into its very first capital campaign in the not-too-distant future, for instance, to raise money needed for its next addition. It becomes quite difficult for us to go out into the corporate world, after Laurentian's capital campaign, and go into a boardroom or to a chief executive officer and ask for money after Laurentian has just been there. I'm not sure all of them understand the subtleties of affiliation and how independent Nipissing is to this current time.

I think there are some tremendous benefits to the system in having a third independent university in the north. We're all well aware—perhaps not aware—of the tremendous youth migration out of northern Ontario. Anything

we can do, even in the slightest way, that might both encourage a net migration into the north and encourage our students and our young people to stay in the north is a positive benefit to the system as a whole.

As you know from this act, Nipissing would be primarily limited to undergraduate degrees. We hope we would be able to attract undergraduate students from all around the world, who would then take part in the outstanding graduate programs Laurentian University has to offer.

We hope that we would be able to increase northern Ontario's image in higher education in an international sense. In that regard, Nipissing has already surpassed, in international development projects funded by the Canadian International Development Agency, both its partner Laurentian and other universities in Ontario. Not being independent is in the way of pursuing some of those independent international relationships.

To conclude, however, in a general sense, Nipissing has developed carefully and prudently over 25 years to the point where it is in fact functioning as a fully independent university operating in North Bay. It's done that through a supportive affiliation agreement, but that affiliation agreement and the nature of the bond between Nipissing and any one institution is in the way of the future development of higher education in northern Ontario.

1030

**Mr Daigeler:** As I indicated, some of the questions I'm putting forward I do out of my responsibility as critic on behalf of everyone in this province. I just would like your comments on remarks that are reproduced in the OCUA memorandum which I understand now has been given to all the members.

On page 23—I know this is somewhat dated; it is stated by the president of Laurentian in 1988, but nevertheless I think it is useful for you to respond to this since it does come from the mother university as it were.

In 1988, the president of Laurentian University, in response to OCUA's inquiry whether you should be given degree granting powers, had this to say:

"The proposal from Nipissing has more to do with civic pride in North Bay than any educational considerations. Civic pride can be a positive force, although most northern Ontario leaders now agree that the intense rivalry between cities that existed in the past probably hurt rather than helped the region's development.

"Now that projects based on pan-regional cooperation are multiplying, it would be ironic if one of the oldest examples of successful intercity collaboration in north-eastern Ontario, namely the Laurentian University system, were to be dismembered."

I just would like to have your comments on these remarks.

**Dr Marshall:** For a start, it came from a letter that was the instantaneous reaction of the president of Laurentian University to the first thought that Nipissing might go on its own. That was three presidents ago at Laurentian University. I think it's fair to say that this particular letter was not the view of the Laurentian system; it was the view of that individual president at that time. Even since that letter



was submitted, I've had personal discussions with that person and I think today he would take back some of the things he said in that document, certainly anything to do with competition, certainly recognizing the tremendous strengths that will come to both our institutions from being a partner rather than being in a subservient relationship.

That was, as I say, three presidents ago. It was based on the very first request, four years ago, made by Nipissing for a charter and since then, as Michael Harris has said, considerable work has been done, considerable scrutiny of all of those issues has been done by many groups, including OCUA and including the ministry.

**Ms Murdock:** If I might as well, part of the concern was the fact that there may be the taking of students from the different areas. Since that time in 1988, there has been a study done in terms of where the students who attend either Laurentian or Nipissing come from. Interestingly enough, they both draw students from their north-south corridor. Nipissing draws from the Highway 11 corridor and Sudbury draws from the Highway 69 corridor, so there isn't any of that kind of taking away of power.

**Dr Marshall:** Yes. To add to that, we did examine as part of the process where all our students come from and found out that—I believe in 1990, the year OCUA did its visit—in approximate numbers, out of 300 new students who came to Nipissing, only four came from the Sudbury region. The rest came from the highway corridor.

In addition, we discovered the myth about the transfer relationships between the two institutions. We found again that in 1991 out of close to 1,100 full-time students, 17 in any one year transferred over for some reason to Laurentian University, which was in fact much less than the transfers to other universities in the system.

**Mr Daigeler:** As you know, OCUA did a pretty exhaustive study of your request and I think it did very good work. That's why I really would have liked someone from OCUA here, because I think it can be looked upon as sort of an in-between body that provides what you may call neutral advice to the minister, yes, but I think to the public in general as well.

They recommended that you be given degree-granting status, but as a special mission institution. They are making this recommendation in the context of other applications that may be coming forward of a similar nature. They did a study on in what way, if at all, the university system should be expanded or not.

In those remarks, on page 9, they say that Nipissing College is not now and does not plan to be a university as defined in programmatic terms in advisory memorandum 91. This is an internal document of OCUA. Can you address this question or issue of special mission institution?

When I spoke with the minister a couple of weeks ago, I was left with the understanding that what he was supporting was OCUA's recommendation that you be given the specific mandate of a special mission institution and not a university in the broad sense. Does this statement on page 9 that you are not now and do not plan to be a university as defined in the OCUA documents still hold, and what is your comment on the recommendation by OCUA to

establish you as a special mission with a limited mandate as a university?

**Dr Marshall:** First of all, Nipissing fully intends to be a fully functioning university. To explain and understand the statement that you've pulled out of the document, you should understand that the criteria OCUA is referring to and the document it's referring to is a previous document that OCUA sent out, proposing to the system some possible defining characteristics of what a university might look like.

Those criteria were their criteria. They were never accepted by the system and certainly, as I understand it, never accepted by the ministry as "the criteria." They were an individual's and OCUA's views as to what the criteria should be in terms of numbers of students and that kind of thing. In making that statement, OCUA had set up its own criteria and then said, "We don't intend to be a university because we don't meet their criteria." Well, there were some of their criteria that I think almost everybody disagreed with. So first of all, the criteria that they were establishing—what they're referring to—were not universally accepted definitions of what a university was or might be.

The second part of your question is that again, relating to my statement, we fully intend to be a fully functioning university. In fact, we are now, by criteria that have been accepted by the ministry, but a special one, as you've identified. There are two places in the act where that is made very explicit: one section where our special mission as a teaching oriented institution with a northern focus is identified, and two paragraphs later, where it's identified that our degree-granting power is limited to undergraduate degrees and a master's degree in education. Combined, those are very powerful statements about the kind of special mission an institution like ours might have and, I think, certainly fully comply with the intentions of OCUA in that regard.

This notion of the special mission is not something that is whimsical. It's not something that has been pulled out of a hat. This is what we've decided we are or we're going to be. The best way to decide and determine what something will look like in the future, in my view, is to look at its history and what it's been in the past. This defines what Nipissing is and has been. The best predictor of its ability to carry out that special mission—and I could elaborate, for instance, how it is special in the area of teaching, how it's special even in the area of research, how it's special in the area of its relationship with its neighbour, the community college—the best predictor of whether or not it will do that is its history.

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In addition, I think you should recognize, and I'm sure you do, that the process by which universities change is very burdensome and onerous. For instance, we have been officially approved through the Ontario Council on Graduate Studies, which examined us academically, very stringently, through the Ontario Council on University Affairs and through the minister for our master of education. That process took five years, at which time we were reviewed by external examiners, by OCUA, by the minister and so on. So the process by which change occurs, by which an



institution could do something that might not fall within someone's vision of its defined special mission, is very difficult.

**The Chair:** Do you have anything further?

**Mr Daigeler:** That's the crux of the question. I will have some questions of the ministry because this is what concerns me: I hear you say quite clearly that at the appropriate time you will want to expand further, and that, I think, was not the intention of the recommendation by OCUA, nor did I think it was the intention of the minister when I spoke with him. But it remains to be seen what the ministry's reaction is and how it interprets this.

I think we are looking, and you seem to say this, at setting up a new university in the full sense of the word. That precisely raises a great number of questions that have a system-wide impact, and that's why I think I'm confirmed in my view that there are a lot of issues that arise out of this seemingly innocuous decision. But I appreciate your comments, and they are on record, and that's why it is important.

In OCUA's recommendation, it does say that you should be granted these powers, but on the understanding that you would give an undertaking to introduce specific measures to expand off-campus and distance education programs. Have you been looking at that as well? Is that something you agree with? Is there any specific undertaking you are making at the present time in response to this request from OCUA?

**Dr Marshall:** Yes. In fact, there are a couple of things in the report that are probably slightly out of date. Of course, one is that request to work with natives. We have done considerable work in that regard in the past few years. The other is in distance delivery. It should be noted that we currently deliver over 100 courses off campus annually, in places from Moosonee to Moose Factory to Wawa through Chapleau. So a good portion of our institution has in fact an incredible record of distance delivery and off-campus delivery.

What OCUA is referring to there is our intention on the arts and sciences side, the delivery of courses off-campus and distance delivery functioning. In that regard, we are having current discussions with some businesses in the north to look at the possibility of using some of their locations. It wouldn't be appropriate for me to name one at the current time, but one could possibly establish an electronic site where we will work with it to deliver courses onsite at its business.

We have created some special budget areas for the development of distance technology in our institution, and we've created some special incentives for faculty members to get involved in the delivery of their courses either through correspondence, distance delivery or some other such means.

**Ms Murdock:** If I might, I would like to respond. Mr Daigeler has been demonstrating a fair amount of reliance on the OCUA report, which is certainly important and was looked at by the minister, but the Ontario Council on University Affairs—which OCUA stands for, for the benefit of Hansard—is not involved in implementing government

policy. It's not involved in the day-to-day operations of universities or of the ministry. They report directly to the minister, with advice and research in response to his particular requests. All decisions regarding Nipissing, in this instance, will be carried out by the Ministry of Colleges and Universities and not by OCUA.

They certainly are required and their expertise is needed for making recommendations, but there is no requirement on the minister to follow those recommendations. In this instance, the minister himself is in favour of Nipissing receiving the university status of conferring its own degrees.

**Mr Daigeler:** I have no further questions to the Nipissing representatives. I will have some questions for the ministry precisely along the lines that Ms Murdock just read from her briefing.

**Mr Fletcher:** Thank you for being here this morning. I was at Laurier when it changed its name from Waterloo Lutheran to Laurier, so I remember what it was like going through that.

You've been working with Laurentian for quite a number of years. You answered most of my questions when you were answering Mr Daigeler's, because I was just wondering what the difference will be if this goes through, if you've already been doing what you've been doing for such a long time. It just becomes official, right? Is that basically it?

**Dr Marshall:** I'll let Stephen answer some questions I haven't addressed, perhaps the emotional ones; I've tried to stick with the factual ones. It is a significant difference to us.

Again, I could go over the specifics of transportation and communication. I could give you all sorts of stories about how communications get lost, how Laurentian is supposed to represent us at provincial bodies, but we're independent. Laurentian sees us as independent; provincial bodies see us as affiliated. We've reached the point where it's so confusing to everybody that it really is appropriate that we go on our own.

Again, I've not tried to suggest that the relationships between Nipissing and Laurentian are unhappy. We have good relationships. However, we've reached the point where the relationships could deteriorate, as often does when one person is kept in a subservient role when he or she is ready to not be subservient. We look forward with tremendous excitement to some very exciting partnerships with Laurentian, and we're into those already.

**Mr Stephen Hamilton:** Being a student at Nipissing, getting a charter would be an immense change for a student, a change for the better. Currently, what I try to do is promote student life on campus. The main one I'm looking at right now is varsity sports, a prime example of a strategic part of the university environment, no matter where you go. Unfortunately, at Nipissing, if I want to participate on the soccer team I have to travel two hours every day to practise with the Laurentian team and hopefully make the Laurentian team, because we have no varsity sports.

There's also a stigma to student life on campus. It's not upbeat. You don't have 100 or 200 students converging on the gym every Saturday night for the basketball game,



because there just isn't one. Student life will be enhanced at Nipissing through varsity sports, being able to receive your marks a few weeks after you write your finals instead of two months after writing your finals. It's a project that all the students are hoping will be encouraged and approved in the Legislature, and we're actively sitting on our hands, waiting to jump up in the air and say, "Thank God, it's finally here."

**Mr Fletcher:** I've been asking everyone. What is the word "Nipissing"? Is that a native word, a French word?

**Dr Marshall:** It's actually a native word and it stands for—John, do you remember? Something to do with the meeting of two lakes.

1050

**Mr John Follis:** "The meeting place." It was the principal area on the old fur trade route coming in off the Ottawa-Mattawa river system through Lake Nipissing, French River, Georgian Bay.

**Mr Fletcher:** Do you know what language?

**Mr Follis:** I believe it's Cree.

**Mr Fletcher:** That would make it the first university with a native name in Canada, if that were to happen. I'm not sure; you'd have to check on that. When we were going with Laurier, we were trying to get them to make it a native name to make it the first, so I'm not sure.

**Ms Murdock:** In response to your former question, as a student I've been there. These students in North Bay go to school in North Bay, they benefit the economy in North Bay, they are part of life in North Bay, and then when they've graduated and finished all their courses they have to drive two hours to Sudbury to attend convocation and have the degrees conferred. Their degree then is on the wall saying it's a Laurentian University degree when probably they've never been on campus at Laurentian throughout the three or four years of their degree program. This will allow them to have their own name and their own conferring of degrees.

**Mr Fletcher:** We'll certainly be supporting this.

**Mr Follis:** I was going to add a personal anecdote. Going back a number of years, I had a friend who finally graduated with a teacher's certificate and decided to go to Laurentian University to receive that—of course, all the education training and what not was done in North Bay—because there'd be a great time: "Let's meet those recipients of degrees in Sudbury and we'll have a little party." One person. It's hard to have a spirit and a feeling for an institution after you've put in your three years, whatever the case may be, have to travel and one person shows up.

Also, I have two brothers who have Laurentian certificates on their walls and have never once been in the institution, other than to play basketball games because they're both very involved in basketball.

You talk about identity and feeling. You speak of Laurier, you remember those days. You know what I mean? There's a real identity you still hold on to. I think in future this will be something that will be very important with Nipissing. It is not the most important thing, but it is important to your student days.

**Mr Anthony Perruzza (Downsview):** Something that's always rather interested me, and it's been more often than not quite puzzling, is how universities and to some degree colleges as well become little worlds unto themselves. It's something, quite frankly, that has always bothered me.

I look here at the appointments to the board of governors. I know there are provisions for some community involvement through the appointment process, but it has been my experience with universities, both as a student and as someone who has lived in the proximity of one for the better part of my life, that universities do very little in terms of outreach to local surrounding communities.

They are a great and invaluable resource for communities generally in terms of the activities on campus and the resources they have at their disposal and so on, but there's very little outreach, there's very little involvement, there's very little volunteerism with respect to allowing local communities access to the facilities, to the resources, both recreation resources as well as academic and educational ones.

Quite often, that deficiency has resulted in the fact that on the boards of governors there are very few people from the immediate community who have a non-élitist community focus.

My question to you, and I know you can't solve a lot of these problems on your own, is how would you bridge that gap when you become a university, as I otherwise believe you should be?

**Dr Marshall:** Again, I think what you are in your history speaks for what you will become. Nipissing is known in North Bay as "the university that North Bay built" and it's treated that way.

I can give you numerous examples of how what you're describing just doesn't happen at Nipissing University College or Canadore Community College. For those of you who don't know, we share the same complex. You walk in the front door and you turn right to Canadore, or you turn left and go into the university. It's just not there.

I'll give you one, maybe two small anecdotes. We're involved in a long-term strategic planning process. We do things a little more slowly than most places. We're planning over three years to try to answer in some detail the kinds of questions that Mr Daigeler has raised. Just how are we special in a very operational way, not just in general terms and fuzzy mission statements, but just what are we? What makes us special?

We've completed a year and a half of that process, and to go into that process we invited the whole community to come, and the whole university. We have started it each year with a—we call it a retreat—at the university. We invite the whole community to come into the university and listen to a keynote speaker—it was Stuart Smith last year; it was Peter George from the COU this year—and to stay and go into working groups with us on Saturday, when we talk about the university.

One of the most exciting topics this year that we debated and examined was Nipissing as a university for the north, or just being in the north. This year out of 110 or 115 participants in our retreat on Friday night and Saturday, 45



of them, plus or minus, were people from the community who gave up their Friday night and their Saturday just to come and be there, to take part in the excitement of helping to plan their university. We put an ad in the paper: Anybody come. And they came. That's what surprises us. They come, they get excited and they take part.

So that's one small anecdote. It is a different place. Perhaps another one is the fact that our board currently is totally composed of people from our region, from Nipissing and the North Bay region.

**Ms Murdock:** As a northerner, I feel compelled to respond, because when Laurentian University, for instance, started it was when I was in grade 12 or 13. It consisted of four rooms in four different buildings throughout the city, and everybody working together to try—John Sola knows full well, because he's from Sudbury as well.

It started out as a community thing. North Bay is the same. When you're living in northern Ontario and distances are so vast and communities are so far apart, you have no choice as a university—or any educational facility, including our community colleges—but to be diversified, to involve the community people, because you'll never get it off the ground if you don't involve the community.

The other thing is that you have to provide courses to the outlying areas, because they can't come in, in many instances. You have to have very diverse kinds of options that the people in the north can use. Even though this facility is situated in North Bay, the reality is that this university is one that is going to serve the entire area of northern Ontario.

**The Chair:** Thank you, Ms Murdock. Are there any further questions?

**Mr Sola:** I have to admit my bias or conflict of interest here, because I am a graduate of Laurentian from the days Ms Murdock mentioned when—

**Mr Daigeler:** A long time ago.

**Mr Sola:** That's right, before the birth of Nipissing, as a matter of fact. I remember attending classes above pool halls—and dividing my time actually—and beside the President Hotel and beside the Empire movie theatre and that. I recall those days.

But my question is, today, what is the stance of the community of Sudbury and of the Laurentian people vis-à-vis Nipissing getting its own charter?

**Dr Marshall:** I'll answer it first, and then maybe Sharon could. We work very closely with the university community certainly. I can't speak for the Sudbury community. Their official public stance has been for three years, since 1989, that if it happens, they're looking forward to a lifetime of working as partners with us. They certainly won't oppose it. I can understand why Laurentian would not come out, wave flags and say: "Nipissing, we can hardly wait until you leave. We would like to get rid of you." And they aren't doing that. They have approached it with equanimity, and they would certainly say, if they were here, that they have never had anything but respect for Nipissing's academic programs, its academic credibility. They recognize as well that Nipissing is currently almost

twice the size that Laurentian was when Nipissing affiliated with it.

They understand how important universities are to their northern community, and I think they would tell you, as they have publicly in recent press releases, how much they're looking forward to a lifetime of partnering with Nipissing in higher education in northern Ontario.

1100

**Ms Murdock:** As far as the community is concerned, I don't think most of the community even realized that Laurentian conferred the degrees upon Nipissing graduates until the newspapers picked up this application story and it hit the Sudbury press. It had been in the North Bay Nugget, but it had not been in any of the Sudbury publications. Since then I have not had any calls to my office or any queries even when I'm out at public events. I think people realize that Nipissing has grown up and it's time to leave the nest.

**Mr Sola:** Knowing the competitiveness between the two communities, I think it may improve both facilities as well.

**Ms Murdock:** You weren't here earlier when I explained that a study showed that students are drawn from a north-south corridor rather than an east-west, so they're not going to be impinging on or taking from their student body and losing one way or the other.

**Mr Sola:** I just wanted to express my conflict of interest. I wanted to make sure I remained faithful to my alma mater in the way I vote.

**The Chair:** Mr Daigeler?

**Mr Daigeler:** I'll have a question for the ministry representatives.

**The Chair:** Could we allow some space at the table? For the purposes of Hansard, could you introduce yourselves?

**Mr Jay Fleischer:** I'm Jay Fleischer.

**Ms Frances Rowe:** I'm Frances Rowe, legal counsel to the Ministry of Colleges and Universities.

**Mr Daigeler:** Thank you for being here. I'm not sure whether you can answer all the questions, because some of them are of a political nature. In fact, I'm disappointed that neither the parliamentary assistant nor the minister is here, because again I want to emphasize the significance of this matter. But I will ask you, and inasmuch as you are a civil servant, as far as you can answer these questions will be appreciated.

Can you tell me how this initiative fits in with the ministry's system-wide planning? How does having the new university at Nipissing fit in with your long-term vision for the university sector and post-secondary education in general in the province of Ontario?

**Mr Fleischer:** Given the increasing lack of resources and the need to make the most productive use of them, the ministry has established a task force on restructuring. One of the conceptual frameworks within which that operates is the need to have institutions which are not all things to all people, and the development of institutions that enhance diversity within the system is one of the long-term goals.



So the development of Nipissing as a university that is not expected to be all things to all people but is expected to serve a particular niche in the post-secondary system is consistent with the long-term planning of the ministry.

**Ms Murdock:** And part of the long-term—

**Mr Daigeler:** I'm not sure, really, whether Ms Murdock is qualified to answer these questions. Do you have any affiliation with the Ministry of Colleges and Universities?

**Ms Murdock:** Other than being involved in this and being briefed on it, quite a bit, actually.

**Mr Daigeler:** You have every right to respond, but I really wonder whether you can take the place of the parliamentary assistant for Colleges and Universities. You are the member for Sudbury and you're the sponsor of the bill, but I think that's the limit of your qualifications on this matter, is it not?

**Ms Murdock:** I would hope that wouldn't be the limitation. I'm quite familiar with the policies this government has been advocating in terms of the long-term strategies we're planning in education, particularly having been a teacher for 13 years.

One of the things we're looking at is trying to integrate the community college and university systems so they are more meshed within each of the communities. I would say this aspect of Nipissing is unique to the entire province, because it is the only physical plant that is connected with both the community college and the university system. They not only share space in terms of gymnasiums and that kind of equipment, but they also have greater ease of transfer of students. In fact, because of their physical application, they end up showing transferred students from college to university and from university to college to a greater degree than anywhere else in the province. So it fits in really well with our political strategy of joining community colleges and universities more effectively, which is one of our thrusts.

**Mr Daigeler:** Getting back to Mr Fleischer, you indicated—that frankly, I support—that this project responds to filling a particular need, Nipissing carving out a niche which could be addressed in the context of the limited resources we have overall. In view of what you just said, how do you react to what the president of Nipissing College said a little earlier in response to some of my questions, where he said they certainly look at this as being set up as a university in the full sense of the word?

Second, are you satisfied that section 4 in the bill, which talks about the special mission of the university, responds sufficiently to the mandate the ministry envisions for Nipissing?

**Mr Fleischer:** In answer to your first point, I think what OCUA was talking about needs to be defined. Just for purposes of informing the committee, when it talked about a university in the full sense of the term, it was talking about an institution that had unlimited degree-granting power, whose mission was the standard university mission of advancement of learning etc. In that sense, that defined a university. A special mission university would be one whose degree-granting powers were somewhat more restricted and whose mission was somewhat less than

simply the advancement of learning. In that sense, there is no inconsistency.

Could you remind me of your second question?

**Mr Daigeler:** Whether you feel—I presume you do, but I'd just like to see this on record—that the special mission and the way it is described in the bill—perhaps I should read it:

“Special mission

“4. The university's special mission is to be a teaching-oriented institution that offers programs in education and in liberal arts and science and programs that specifically address the needs of northern Ontario.”

Does that satisfy your understanding of the limited mandate of this new university?

**Mr Fleischer:** I'm not exactly sure what you mean by satisfying me. It is a mission totally unique from other universities and much more restrictive than that of other universities. In that sense, it is a special mission, and the minister is happy with it.

1110

**Mr Daigeler:** I make, as you noted, extensive use of the work that was done by OCUA. Even though Ms Murdock is trying to downplay the significance of OCUA, I think she is false in doing this.

**Mr Perruzza:** On a point of order, Mr Chair: I've been listening really closely now for quite some time to Mr Daigeler. Despite some of the unparliamentary language he may be using to make some of his points, I can't see where the heck he's going with his questioning and what he's trying to get out.

**The Chair:** The point of order raised is not a point of order.

**Mr Perruzza:** Mr Chairman, I think you have to make a decision on the word “false.” Is it parliamentary language, yes or no? That's what I was raising. I said that, Mr Chair.

**The Chair:** That's certainly a valid point, Mr Daigeler.

**Mr Daigeler:** What is a valid point? What was incorrect? I certainly maintain that the attempt to downplay the significance of OCUA by Ms Murdock is incorrect.

**The Chair:** When you use the word “incorrect,” you are then withdrawing the earlier word?

**Mr Daigeler:** I said “false.” If that offends you, then I certainly will withdraw that.

**The Chair:** Thank you, Mr Daigeler. I think “incorrect” is probably—

**Mr Daigeler:** Fine. I think OCUA continues to serve a very important and useful purpose, and it's done extensive work on this matter. Therefore, in the interests of the public and in the interests of Nipissing, I think it's very important that some of these questions that were raised by OCUA are answered and are answered satisfactorily. I think that's our role as a committee, despite what Mr Perruzza may believe.

**Ms Murdock:** I've never said anything other than that, Mr Daigeler.



**Mr Daigeler:** Could I ask a question that was noted on page 19 of OCUA? It says, "At this point, it should be noted that autonomy for Nipissing College would fundamentally alter and possibly destabilize the Laurentian University system." What is your comment on that? In particular, what is your answer to this suggestion and what is the impact of the decision we're making today, or at least on second reading, for Algoma and for Hearst College?

**Dr Marshall:** I have the OCUA document in my bag, and I can pull it out, but I think you'll find it circled and highlighted and almost memorized. The document has been given incredible scrutiny by me, as president presenting this bill, and by the ministry and the ministry staff. We've sat down and looked at every sentence in it. There are sentences in it that, quite frankly, from my point of view, are strictly conjecture. This is one where there doesn't seem to be even the slightest shred of evidence. There isn't any evidence; in fact, there's considerable evidence of strengthening, but that's another matter.

You ask about Algoma and Hearst and the others. I think the fact is—

**Mr Daigeler:** Mr Chairman, my question was really to the ministry representatives. I understand your views on the matter, but you will understand that you have an interest in this matter. That's why I think OCUA has to be responded to. It has a sort of an in-between view. I want to hear from the ministry how it perceives this suggestion, because it has an obligation to look at the whole system. Even in OCUA they're not saying that this is what's going to happen; they're saying it may. So I just want to have an answer from the ministry as to what its response is to this.

**Mr Fleischer:** I am not aware of any evidence which would be in support of that allegation. With respect to Algoma and Hearst, the ministry would consider any application from any other affiliate on its own merits and would make a decision on its own merits. A decision on one does not have any link to what the minister may or may not decide with respect to an application from any other affiliate.

**Mr Daigeler:** That's fair enough. That's what I was—

**The Chair:** Further question, Mr Daigeler?

**Mr Daigeler:** Yes. Again, in the OCUA recommendation, it supports the application under the conditions I already mentioned. They also say Nipissing College should undergo a quality appraisal as recommended in the standard OCUA process. Was that quality appraisal carried out, and if not, why not?

**Mr Fleischer:** In point of fact, all Nipissing programs undergo quality appraisal and have to be approved by the Laurentian senate, and the minister noted that.

In addition, the graduate program to which Dr Marshall referred underwent a very comprehensive and onerous assessment process involving the advisory committee, the Ontario Council on Graduate Studies, the Ontario Council on University Affairs and the ministry. So all Nipissing's programs have undergone an academic appraisal, and therefore the minister saw no point in establishing a process—and I would note that right now there is no system-wide undergraduate appraisal process. A system-wide process

exists only at the graduate level. Nipissing has undergone the same academic appraisal requirements as all other universities.

**Mr Daigeler:** So you did not accept OCUA's recommendation. They "reserve judgement until a more authoritative reading of faculty qualifications, research output, academic standards, program content and academic governance can be rendered by a properly qualified committee of peers." You did not accept that recommendation.

**Mr Fleischer:** The minister chose to proceed on the basis that he indicated, as he did publicly in a letter in his response to the chairman of council, that with respect to Nipissing, he felt he now had enough information with respect to the academic quality of its programs to proceed.

**Mr Daigeler:** I see. Why would you think the minister felt that way and OCUA didn't?

**Mr Fleischer:** I would be assuming what was going through the minister's mind. I can only point out to you my knowledge of the assessment and appraisal process, and the fact that Nipissing has been in existence for 25 years and has undergone comprehensive appraisals of its programs. It's not a case where none of its programs had been appraised and that the ministry had no knowledge of what the quality or lack of quality might be of its programs. The Laurentian senate had it tested at the undergraduate level to the quality of all of its programs and was willing to give Laurentian degrees for completing those programs.

**Mr Daigeler:** Thank you. I'm getting to the end of my list of questions.

Again, in the OCUA recommendations, when it talks about differentiation of the university system, which it supports, it is also talking about the accompanying differentiation of funding. Given that this is, I guess, a move in the direction of a differentiated university structure, are you looking also at differentiated funding, or is that not under consideration?

**Mr Fleischer:** I'm not aware of what the outcomes of all the exercises currently under way will be. The decision on this particular act does not pre-empt any decisions that may be forthcoming from those exercises.

**Ms Murdock:** Mr Murray Green actually is the financial administrator for the board, so perhaps he would have the information Mr Daigeler requires.

**The Chair:** I also advise Mr Fleischer and Ms Rowe that there's no obligation on you to answer any questions that relate to future intent or policy if that puts you in a compromising position.

1120

**Mr Murray Green:** Just a simple comment: Nipissing University has been a fully funded partner in the Ontario university system for a long time. On a financial basis, the decision made today or in the future will have no bearing on cost; you mentioned cost earlier on. As I say, we are currently a fully funded partner and there will be absolutely no change once we have the charter in the future.



**Mr Daigeler:** I guess this is outdated, although sometimes insights have to take a while to mature.

Perhaps a final question: In 1982, OCUA suggested moving in a totally different direction, and that was to establish a northeastern university which would have campuses in different places. Has this concept been totally abandoned? With this initiative we're discussing today, is that the final nail in that coffin?

**Mr Fleischer:** I wasn't around when the 1982 advice came in, and I don't know what the response to it was.

**Ms Murdock:** And frankly, I don't think it would be for him to say.

**Mr Daigeler:** It goes back to my initial question and to the concern that we, and particularly the minister must address in the ministry, what is the long-term vision for the university development in this province, and does this particular project help that vision or hinder it. It's in that context that I want your remarks on that matter.

**Ms Murdock:** Mr Chair, I already answered that question, I believe.

**Mr Perruzza:** On a point of order, Mr Chair.

**The Chair:** Mr Perruzza, under what standing order?

**Mr Perruzza:** Redundancy. I believe the standing orders clearly stipulate that you can't repeat the same argument. Maybe you can get away with it once, twice, three times, four times, but when you get to six, seven, eight and nine, then it's redundant, and I think you can rule on that, Mr Chairman. He keeps asking the same question over and over again.

**The Chair:** Thank you, Mr Perruzza. I think the central question Mr Daigeler puts may have been phrased before. However, it's such a general question that the ministry officials are also not obliged to respond to it. Mr Fleischer.

**Mr Fleischer:** I'm not sure what I can add to what I've already said.

**The Chair:** Thank you. Mr Green.

**Mr Green:** Just another simple comment: It was pointed out earlier that we share a campus with Canadore College. We are very unique because there is a large number of central services we share. In so doing, I think we can provide a better value for the dollar in terms of education and perhaps can be a model to other institutions in the future. I think I'd stop there.

**The Chair:** Mr Daigeler?

**Mr Daigeler:** No further questions.

**The Chair:** Any other questions? Are we then ready for a vote on Bill Pr70? Are there any outstanding issues regarding any of the sections, Mr Daigeler or any other members?

If we are ready for a vote, shall sections 1 through 42 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

**Mr Fletcher:** I'd like to move that the fees and the actual costs of printing at all stages and in the annual statutes be remitted on Bill Pr70, An Act respecting Nipissing University.

**The Chair:** Mr Fletcher moves a waiver of fees. All in favour? Fees are waived.

**The Chair:** Thank you, Ms Murdock, Mr Green, Dr Marshall.

**Ms Murdock:** This is a historic moment. Thank you.

#### CITY OF YORK ACT, 1990

**The Chair:** I have a letter from the applicant asking that Bill Pr51, An Act respecting the City of York—Mr Marchese's bill, I believe—be withdrawn. Is it the wish of the committee that this bill not be reported? Agreed. It is being withdrawn.

**Mr Sola:** Mr Chair, I noticed that Frank Miclash came in after we had debated his bill. I wonder if that matter could be cleared up. I had mentioned the fact about dispensing with the fees for that, but could we put on the record whether he has confirmed the status of the organization, An Act to revive Pinecrest Community Association?

**The Chair:** Mr Sola, the clerk informs me that that matter has been worked out. Although it is a vital community organization, it's not a registered charity, so there will be another way of dealing with the fee problem without encumbering that organization.

**Mr Sola:** Thank you. I just didn't want to leave that matter hanging, so that's why I raised the question.

**The Chair:** Thank you very much for bringing that up, Mr Sola.

We do have, I believe, some three pieces of legislation for next week and so we will be meeting next Wednesday morning. We are adjourned until 10 o'clock next Wednesday.

Interjections.

**The Chair:** Sorry. We have the budget in front of us. The clerk brought that adjournment to a hasty closure.

**Mr Fletcher:** I'd like to move approval of the budget for the standing committee on regulations and private bills for 1992-93, of \$13,550.

**Mr Ron Eddy (Brant-Haldimand):** Could I ask how that compares to 1991-92?

**Clerk of the Committee (Ms Lisa Freedman):** It's actually about \$10,000 less.

**Mr Eddy:** I'm stunned.

**The Chair:** Further discussion on the budget? All in favour? Opposed? Thank you.

**Mr Perruzza:** I move the adjournment, Mr Chairman.

**The Chair:** Thank you.

The committee adjourned at 1129.







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## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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### Substitutions / Membres remplaçants:

- \*Daigeler, Hans (Nepean L) for Mr Eddy
- \*Fletcher, Derek (Guelph ND) for Mr Dadamo
- \*Perruzza, Anthony (Downsview ND) for Mr Sutherland

### Also taking part / Autres participants et participantes:

Eddy, Ron (Brant-Haldimand L)  
Harris, Michael D. (Nipissing PC)

\*In attendance / présents

**Clerk /Greffière:** Freedman, Lisa

**Staff / Personnel:** Klein, Susan A., legislative counsel





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## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 4 November 1992

# Journal des débats (Hansard)

Mercredi 4 novembre 1992



**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets de loi  
privés**

Chair: Drummond White  
Clerk: Lisa Freedman

Président : Drummond White  
Greffière : Lisa Freedman



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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 4 November 1992

The committee met at 1005 in committee room 1.

**The Chair (Mr Drummond White):** I'd like to call this meeting of the standing committee on regulations and private bills to order.

### EILPRO HOLDINGS INC. ACT, 1992

Consideration of Bill Pr49, An Act to revive Eilpro Holdings Inc.

**The Chair:** First on our agenda is Bill Pr49, An Act to revive Eilpro Holdings Inc; Mr Mammoliti sponsoring.

**Mr George Mammoliti (Yorkview):** In front of the committee today we have what I believe is good news in terms of reviving another business. To me, what that means is jobs, Mr Chair, and Eilpro Holdings will provide 10 to 15 jobs from what I can gather, and for me that's good news. For me, that means that 10 to 15 more people will be employed.

For that reason, I'd ask the committee to consider agreeing with the lawyer who's present with me today. It's Gregory Farano, who's representing Eilpro, and I'll be giving the floor to him in a second, but I can't stress how important this jobs factor is to me as a member. You know that we're having tough times and I believe that this company will help us—to a degree of course, but good news.

**The Chair:** Thank you, Mr Mammoliti. Mr Farano.

**Mr Gregory Farano:** Mr Chairman, I'm the solicitor for Eilpro Holdings and I'm here today to represent the company in its attempt to revive itself.

As you can see on the face of the bill, the company's charter was cancelled in July 1985 for failure to file a return under the Corporations Tax Act. That failure was as a result of inadvertence. The corporation commenced revival proceedings some time thereafter and the principal of the corporation, Sam Fuda, went through a series of personal troubles, which resulted in a delay in the revival proceedings. He has since recommenced the proceedings and found that he was beyond the five-year limitation period for filing articles of revival—a fairly simple procedure—with the Ministry of Consumer and Commercial Relations. Hence our appearing before you today and being faced with the alternative of reviving the company through a private bill.

Again I'd like to stress that the cancellation and subsequent attempts to revive the corporation and breaking those attempts off were as a result of inadvertence or personal troubles on the part of the principal of the corporation. Some business has been transacted in the intervening period by the corporation and it's intended that, subject to its being revived, those business transactions will continue.

**The Chair:** Thank you, Mr Farano. I understand that there's a letter that the committee members have received.

Is there an objector present? Any other interested party? Any questions of Mr Farano or Mr Mammoliti? Mr Mills?

**Mr Gordon Mills (Durham East):** I have no objections, Mr Chair.

**The Chair:** No objections from the parliamentary assistant. Are we then ready for a vote?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

**Mr Mammoliti:** I'm familiar with the process, but just for Mr Farano and I guess to enlighten him in terms of the process, what happens after today's date and how quickly will it get to the House, that sort of thing?

**The Chair:** Typically it will be reported to the House this afternoon and royal proclamation at some point in the near future.

**Clerk of the Committee (Ms Lisa Freedman):** And second and third reading.

**The Chair:** Second and third reading, yes.

**Mr Mammoliti:** Yes, okay. Thank you.

**Mr Farano:** Thank you very much.

### CITY OF OTTAWA ACT, 1992

Consideration of Bill Pr19, An Act respecting the City of Ottawa.

**The Chair:** Mr Sola, on behalf of Mr Chiarelli, is presenting Bill Pr19, An Act respecting the City of Ottawa.

**Mr John Sola (Mississauga East):** Thank you, Mr Chair. It seems I'm assuming my regular duties as a pinch-hitter here, this time on behalf of my colleague Bob Chiarelli.

I'd like to present for your consideration Bill Pr19, An Act respecting the City of Ottawa, which I understand is a bill to enable the corporation of the city of Ottawa to regulate street vendors. Seeing as how I'm not too familiar with the bill, I will pass the microphone over to Mr Douglas Wallace, the acting solicitor for the city of Ottawa.

**Mr Douglas Wallace:** Thank you, Mr Chair and members of the committee. It's hard to imagine how anybody would want to be out in the street selling today, whether it be in Ottawa or Toronto, but however that may be, the fact is that in the city of Ottawa we do have a lot of street vendors. We have some 500 street vendors in the city of Ottawa, including two broad classes of refreshment vehicles and merchandising. That's compared to here in Toronto, you have some 335, I understand, in the city, with more than twice the population. I'm not sure, as I say, why street vending is so popular in Ottawa, but it is.

We've generally done a good job of licensing and regulating the street vendors. Things have run fairly smoothly and are improving all the time. The one remaining problem that we have, and which this bill before you is meant to address, is the problem that we cannot determine designated spots on sidewalks for designated specific vendors. The result is that vendors tend to gravitate to the most popular areas of the city, the most profitable areas of the city, so that although we can control the total number, we can't say how many can be in any one location.

This causes two main problems. The first problem is that we get involved in territorial disputes because certain spots are noted to be the most popular spots and everybody wants to be there, so there are disputes among vendors. The second main problem that creates is restriction in the flow of pedestrian and vehicle traffic if you get too many vendors at one spot.

This bill is designed to deal with both of those problems by allowing the city to pass a bylaw setting up a licensing scheme that you would purchase your licence or permit to vend in a particular location. The details of how that location is determined and for how long the licence will be valid and whether there's a rotation between licensees are to be dealt with in the bylaw.

It also allows two other notable features in the bill. It allows fees to be set according to the location and it allows vehicles to be removed if they are vending in other than the spot that was designated for them.

These solutions have been tried and used successfully in Toronto pursuant to its private legislation. We have discussed the matter with Toronto at some length and its legislation appears to be working. We're following the same solution. Members of the committee who are more familiar with Toronto than I am may have noticed on the sidewalks little, yellow L-shaped markings for designated spots. That we can't do under the existing legislation but would be able to do under the proposed legislation.

The legislation generally has had a fair amount of public participation, input, and is generally supported by both the merchants who are affected by vendors outside their establishments and by the vendors themselves.

I have with me today Martha Boyle, who is the operating head of the branch that would be dealing with the bylaw. If the members of the committee have any questions, either I or Mrs Boyle would be happy to address them.

**The Chair:** Do the committee members have any questions?

**Mr Sola:** I notice that we've received a letter which is not really in opposition but is offering a couple of amendments, and I wonder whether we could get some word as to whether these amendments are acceptable or not.

**Mr Wallace:** As you point out, the association from which the letter comes is generally in support of the legislation. They have raised several concerns in their letter dealing with the process of determining who's going to get what permit and for what period of time, and whether the permits, for example, will be transferable. All of these matters can be addressed in the bylaw that the city would pass pursuant to the legislation, and I do not believe the

legislation precludes any of those objections being taken into account in the bylaw.

**The Chair:** Any further questions? We have, as noted, several letters that committee members will see appended to the act. Are there any interested parties here present? Are there any interested parties present here? No. Mr Parliamentary Assistant.

**Mr Mills:** We are recommending that no objections be made to the proposals, providing amendments are approved to answer the ministry's concern to define highway, jurisdictions, confining the enforcement to peace officers and enforcement on regional roads in the region that passes the bylaw. We have five amendments that will deal with those issues.

**The Chair:** Are there any amendments forthcoming?

**Mrs Ellen MacKinnon (Lambton):** I move that subsection 4(1) of the bill be amended by striking out "person" in the first line—

**The Chair:** Excuse me. Are there any amendments to section 1?

**Mrs MacKinnon:** I've got an amendment here for clauses 1(a) and 1(b).

**The Chair:** Start with 1(a), please.

**Mrs MacKinnon:** Sorry, nobody told me.

I move that clause 1(a) of the bill be struck out and the following substituted:

"(a) designating all or any part of a highway under the jurisdiction of the corporation, including the sidewalk portion, as a removal zone."

By way of explanation, this is to clarify that the bill will apply to all parts of roads, including the sidewalk.

**The Chair:** Any discussion on that amendment? No? Hearing none—

**Mr Ron Hansen (Lincoln):** Mr Chair, I have a hard time hearing when you get away from the mike, and I think some of the other members here. All it is, is just a big blur of mumble, mumble, so we have a hard time—

**Mr Jim Wilson (Simcoe West):** We're lucky he's on the same planet.

**Mr Hansen:** Pull your mike down there so we can hear you, please.

**The Chair:** I read the same amendment Mrs MacKinnon read a few moments ago, but—

**Interjection:** Yes, but the other stuff you were saying.  
1020

**The Chair:** Are there any questions on the amendment, or would you like it read again, Mr Hansen?

**Mr Hansen:** No, that's fine. I was just clarifying. We didn't hear what you were saying.

**The Chair:** Are there any further questions or comments? Hearing none, are we ready for a vote on this amendment?

Shall the amendment to clause 1(a) carry?

**Interjections:** Carried.

**The Chair:** Thank you. Mrs MacKinnon.



**Mrs MacKinnon:** I move that clause 1(b) of the bill be amended by adding after "highways" in the second line "under its jurisdiction."

The explanation is the same as the previous one regarding the highways under the city's jurisdiction.

**The Chair:** Any objections, Mr Hansen?

**Mr Hansen:** No, there are no objections there, Mr Chair.

**The Chair:** Any further discussion? Are we ready for a vote on clause 1(b)?

Shall the amendment to clause 1(b) carry?

**Interjections:** Carried.

**The Chair:** Thank you. Any amendments to section 2?

**Mrs MacKinnon:** No, there aren't.

**The Chair:** Shall section 1, as amended, carry?

**Interjections:** Carried.

**The Chair:** Shall section 2 carry?

**Interjections:** Carried.

**The Chair:** Are there any amendments to section 3?

**Mrs MacKinnon:** Mr Chair, I have an amendment to clause 3(4)(b).

I move that clause 3(4)(b) be amended by striking out "public highways" at the end and substituting "any highway to which this act applies."

The explanation for this is that this is a concern of our Ministry of Transportation. That bill only applied to roads under the jurisdiction of the city of Ottawa.

**The Chair:** Any discussion, Mr Hansen?

**Mr Hansen:** No, Mr Chair.

**The Chair:** Any further questions? Are we ready for a vote on section 3?

Shall the amendment to section 3 carry?

**Interjections:** Carried.

**The Chair:** Shall section 3, as amended, carry?

**Interjections:** Carried.

**The Chair:** Thank you. Are there any amendments to section 4?

**Mrs MacKinnon:** Section 4.1: I move that the bill be amended by adding the following section. This is fairly lengthy. I'm sorry. I didn't get the right paper.

Subsection 4(1): I move that subsection 4(1) of the bill be amended by striking out "person" in the first line and substituting "peace officer."

This responds to concerns of the Solicitor General that only peace officers will be able to enforce the provisions of the bylaws passed under this bill, instead of any person.

**The Chair:** Any questions on this one, Mr—

**Mr Derek Fletcher (Guelph):** Fletcher.

**The Chair:** Fletcher, yes.

**Mr Jim Wilson:** I don't think he's on this planet Earth.

**Mr Fletcher:** I don't think he is, Jim. I really don't think he is.

I was just wondering—"person" as opposed to "peace officer." In the city of Ottawa—I guess I'll put this to

you—do you have bylaw officers? Are they peace officers or bylaw officers or—

**Mr Wallace:** Yes, we have municipal law enforcement officers who are classified as peace officers.

**Mr Fletcher:** They're not with the police department in your area, or are they?

**Mr Wallace:** They're appointed by the municipality, but they act as peace officers.

**Mr Fletcher:** Strictly in the enforcement of bylaws.

**Mr Wallace:** Yes.

**Mr Fletcher:** Okay; thank you.

**The Chair:** Any further discussion, Mr Hansen?

**Mr Hansen:** Well, just the same question there, because I always took a peace officer as most likely a municipal officer or a police officer. So, okay. It's clear.

**The Chair:** Fine. Further questions, comments? Shall the amendment to subsection 4(1) carry?

**Interjections:** Carried.

**The Chair:** Thank you. Shall section 4, as amended, carry?

**Interjections:** Carried.

**The Chair:** Thank you. We have a section, I believe, Mrs MacKinnon.

**Mrs MacKinnon:** Yes. This is section 4.1.

I move that the bill be amended by adding the following section:

"Regional roads

"4.1(1) A bylaw passed under this act may apply to any highway established as a regional road within the regional road system established by the regional municipality of Ottawa-Carleton as if the regional council had passed the bylaw.

"Approval required

"(2) A bylaw passed under this act with respect to a highway under the jurisdiction of the regional municipality does not come into effect until it is approved by regional council by bylaw.

"Repeal

"(3) This section is repealed on the fifth anniversary of the day this act receives royal assent unless repealed earlier by any general or special act."

The explanation for this is to allow the provisions of the act to apply to the regional roads with approval of the region.

**The Chair:** Mrs MacKinnon moves—

**Mr Sola:** Dispense.

**The Chair:** Thank you.

**Mr Hansen:** Let him read it.

**The Chair:** Would you like to read it, Mr Hansen?

**Mr Hansen:** I heard every word so you wouldn't have to read it over again.

**The Chair:** Good. I'm glad you were paying attention, Mr Hansen.

**Mr Hansen:** We turned our names around so you can address us properly, Mr Chair.

**The Chair:** Any further questions? Are we ready for a vote on the amendment, the additional section 4.1?

Shall section 4.1 carry?

**Interjections:** Carried.

**The Chair:** Thank you. Are we ready for a vote on 5 and 6? Shall sections 5 and 6 carry?

**Interjections:** Carried.

**The Chair:** Shall the preamble carry?

**Interjections:** Carried.

**The Chair:** Shall the bill carry?

**Interjections:** Carried.

**The Chair:** Shall I report the bill to the House?

**Interjections:** Agreed.

**The Chair:** We have one further bill this morning, the bill Ms Sullivan is presenting, but prior to introducing that, with your indulgence, Ms Sullivan, I suggest we take a five-minute break so that we could be sure all parties interested are present.

The committee recessed at 1029 and resumed at 1037.

#### CITY OF BURLINGTON ACT, 1992

Consideration of Bill Pr3, An Act respecting the City of Burlington.

**The Chair:** Can we reconvene now, please? We're now dealing with Bill Pr3, an act respecting the city of Burlington, Ms Sullivan presenting or sponsoring.

**Mrs Barbara Sullivan (Halton Centre):** I'm pleased to introduce you to Mayor Walter Mulkewich of the city of Burlington, who will introduce the remainder of the delegation and speak to the bill which is before you.

**Mr Walter Mulkewich:** Thank you very much, Ms Sullivan. It's certainly a pleasure to be here to introduce this bill, An Act respecting the City of Burlington, which is a bill that deals with three different, unrelated matters: one with the parking area, one with an area dealing with site plan control, and thirdly, an area dealing with the election of members of the Hydro commission.

I have with me staff people who will speak to the purpose of the bill and to the details of the bill, and I'd like to introduce them, Mr Chair, with your permission. Mr Gordon Grechulk is our deputy solicitor, who will speak to all the three sections. Mr Michael Fenn, city manager, will be available to speak and answer questions. Mr Gary Goodman, the executive director of planning and development, will also be available. With us as well, if there are questions, in the back row, is Mr Kirkpatrick, the manager of parking and downtown operations for the city of Burlington.

Having said all of that, I would like to turn over the proceedings to our deputy solicitor, Mr Gordon Grechulk, who will take you through the bill and explain it for you.

**Mr Gordon Grechulk:** Thank you, your worship. What I propose to do is go through each section very quickly and then Mr Fenn, Mr Goodman and myself will answer any questions that the committee may have on any of the sections.

With respect to section 1, the section is not a new section. We have a Town of Burlington Act enacted in the 1968-69 Statutes of Ontario, which is very similar legislation to what is before you today. What we are trying to do with respect to that older legislation is update it and improve that legislation to give the city more flexibility to deal with parking in Burlington's downtown, as well as to give more assistance to the downtown merchants to a greater extent than what is presently contained in the older legislation.

With respect to section 2, I'd like to just get into a bit of history on the reason and purpose for section 2. To the best of my knowledge, the city of Burlington was the first municipality in Ontario to legally have site plan control by virtue of its legislation in the Town of Burlington Act, 1971. I would like to emphasize that when that proposed legislation was being introduced back in the early 1970s, there were a number of ministries, as well as other parties, that were opposed to that legislation. However, it was carried by the standing committee at that time and became law. Shortly thereafter, it was recognized by municipalities and other parties throughout Ontario as one of the most advanced pieces of planning legislation in the province of Ontario.

Subsequently, the government itself at that time, in 1973, saw the benefit of site plan legislation and introduced site plan legislation on a limited scale, and that legislation is now contained within section 41 of the Planning Act.

We feel the existing section 2, as drafted, will complement our existing site plan procedure, which has been developed over a number of years, and again show that Burlington is a leader in planning urban environments in the province of Ontario.

Section 3 again is not new legislation. Similar public, not private, legislation was passed in 1979 by virtue of the Regional Municipality of Halton Act, with respect to hydro-electric services. In that legislation, there was provision for municipalities to pass bylaws electing commissioners by wards. The difficulty we're facing is that in that 1979 legislation, there was a window or a limitation period when such a bylaw could be passed by a municipality; the period when such a bylaw could be passed was from June 22, 1979, to July 1, 1980, approximately one year. Unfortunately, Burlington never passed a bylaw during that period. However, reflecting on the legislation, we now think there are some positive aspects to such legislation, to electing representatives by wards.

Mr Chairman, that is a quick overview of the three sections.

**The Chair:** Thank you very much. We have, as you pointed out, sections dealing with somewhat different issues. I understand that there are some parties present who are interested in this bill. Before we bring forth those interested parties, are there questions of the applicant or the sponsor?

**Mr Ron Eddy (Brant-Haldimand):** While I appreciate the attendance of the officials from the city of Burlington to give us the explanations, and I must congratulate the city



of Burlington for being the forerunner in the site plan control legislation process used by everyone, the question I have really is regarding the hydro-electric services act and the commission.

I note with interest the London-Middlesex bill, giving the city of London authority to have an appointed hydro commission of three persons. I just wondered if the representation would want to include that in the bill to have more flexibility, if at some time the council wished to appoint a commission rather than have an elected commission. I think it's an internal municipal matter to be decided by the individual municipal councils; I have no problem with going either way. I realize the amendment is to meet a particular problem, but I just wondered if more flexibility might be an advantage.

**Mr Grechulk:** Mr Chairman, I would ask Mr Fenn, our city manager, to respond.

**Mr Michael Fenn:** I appreciate the member's suggestion. For the information of the committee, that option was contained in the original draft of the bill. The members of the hydro commission expressed reservations about it, and the standing committee of city council that has responsibility for this recommended that that element of the bill be withdrawn. They did, however, feel, in view of the area of Burlington and the diversity of the community, that the option of electing by ward should be available to a future council.

**The Chair:** Further comment?

**Mr Cameron Jackson (Burlington South):** One of the concerns I might have with section 3 is the notion that the clause enables council to move in one direction but not necessarily to move back if, in the judgement of council, the process of electing by city-wide election becomes the preferred option.

I wish to add to those comments that both in the mayor's and my political lifetime we have sat on committees that have dealt with this issue, and we have been confronted with the unpleasant task of dividing up wards and not having the appropriate number of electable people required for the number of wards which the city is bound to establish for entirely different reasons. That got into a very offensive practice of offloading two wards to one elected person and one ward to another person, which meant they were representing twice as many people, in general terms.

My fear, and one of the reasons I personally am having difficulty with section 3, and so are people who have been elected across town, or people who have to be elected and conform to municipal wards such as trustees and others. They have concerns, because it's easy to get into these but it's very difficult to get out of them. My concern is that the wording of this engages something but doesn't disengage something at the option of council.

I'd prefer some comment or response to that.

**Mr Fenn:** If I can respond to those two points, the first is that the legislation is modelled on the general legislation that was available, so the issue of going back to the original arrangement was not countenanced when we originally drafted the legislation. We were endeavouring to

model it on the general legislation that was originally passed.

With respect to the ward issue, there are currently five members of the hydro commission, four of them elected, one, the mayor, ex officio. We have eight wards in the city of Burlington. We have combinations of wards in the separate school board and situations like that, so it's doable. I wouldn't suggest that we're inflexible on it. There may be some arrangements that might be made to modify the wording of the legislation, but I would leave that to Mr Grechulk.

**Mr Grechulk:** If I could add to that, we certainly have no objection if some provision was built into the section that we also have the authority to repeal the bylaw if the council so wishes. I had assumed, pursuant to legislation, that if we have the authority to enact the bylaw, we also have the authority to repeal the bylaw. If that is unclear, we certainly have no objection to that amendment being put into the section.

**Mr Jackson:** My understanding would be that this enabling legislation allows you to move in one direction. It does not speak to the issue of converting back, which is why you're before us. You're in a position where you can't make the changes. That would be my legal interpretation of it, and I would therefore want to see section 3 amended or perhaps even lifted at this time and worked on.

Let me just suggest to you, Mr Chairman, and I'll be very brief, that this is a substantive move in any given community and should be widely consulted on, not just with the PUC but also with the public generally, who are the stakeholders ultimately. That may not have necessarily occurred to get us to this point, but certainly could occur if we had a perhaps better worded amendment that allowed council to move back to a system, in the event, seven or eight years from now, that we now have nine wards in the city of Burlington and have four PUCs.

And it has occurred within the lifetime of the mayor's and my elected experience, so we're speaking from experience. Today it will fit, tomorrow it may not, and I want to make sure my council doesn't have to specifically run back here to get out of the situation.

**The Chair:** Indeed.

**Mr Jim Wilson:** Perhaps it would be appropriate to ask legislative counsel their legal opinion of this section 3 in terms of repealing such a bylaw.

**Ms Lucinda Mifsud:** If they repeal it, will it revert back to a general election?

**Mr Jim Wilson:** Is it necessary to have specific wording in section 3 to allow repeal of the bylaw?

**Ms Mifsud:** I think it would be safer, yes.

**Mr Jim Wilson:** Would legislative counsel undertake to draft some wording?

**Ms Mifsud:** I'm working on a motion right at this moment. I'll need about five minutes. If you wish to move the motion, I'll give it. I'd like the Ministry of Municipal Affairs to take a look at it, and the applicant also, if you want to stand it down for a couple of minutes.



1050

**Mr Jim Wilson:** That's agreed, Mr Chair. My preference then would be to move to section 2 and to perhaps hear from the objectors regarding section 2, and reserve the right to come back to the mayor and the city officials after we've heard that presentation.

**The Chair:** I think that makes a great deal of sense and follows exactly the regular practice. I'm wondering if it would be all right for the applicants to step aside so we can hear from—yes, Mr Ruprecht?

**Mr Tony Ruprecht (Parkdale):** Supplementary to this, I didn't hear any objection to this from the city officials at all. They'd certainly be in favour of that, is that correct?

**Mr Grechulk:** Mr Chairman, my comment was that if there was an amendment to authorize the municipality to repeal the bylaw, we have no objection to that.

**Mr Ruprecht:** Oh, you said if there was an amendment.

**Mr Grechulk:** Yes.

**The Chair:** I'm sure that legislative counsel and Municipal Affairs and the mayor and counsel will take a look at that amendment and see if it is satisfactory.

**Mr Mills:** Mr Chair, I think we have some folks here who should be heard to talk to this amendment before we go ahead with it, from the Hydro, their deputation. I think it would be rather unfair to go ahead and do this without the comments from those folks.

**Mr Ruprecht:** I'm sure that the objectors from Hydro would also have the opportunity of consulting with regards to that amendment. Can we do that before it's brought back?

**Mr Hansen:** We really should hear from the objectors first.

**Mr Jim Wilson:** When I made that suggestion, I forgot about the Hydro representation, so we should hear from them first.

**The Chair:** My only concern is that we seem to have two balls up in the air at the same moment.

**Mr Jim Wilson:** Except we're dealing with section 3, so let's get it out of the way.

**The Chair:** There are a number of people with concerns in regard to the bill. I would suggest that we hear first from Virginia MacLean, representing Canadian Tire, before we move back to the Hydro issue.

**Mr Jim Wilson:** Mr Chairman, we're dealing with section 3. Legislative counsel needs to hear from hydro so we can get that amendment written up, so let's deal what we're dealing with and then go to another issue, which is section 2. It only makes sense.

**The Chair:** Mr Wilson, we're not dealing with section 3 specifically until we get to clause-by-clause. The reason I had suggested that we allow legislative counsel to confer with the interested parties here was so that there would be sufficient time, so that both the objectors and the applicant are aware of what's in the amendment. If you wish to adjourn, we can do so and come back.

**Mr Hansen:** Mr Chair, I agree with Jim that we should be listening to 3 so the legislative counsel can hear some of the objections. To go on to another area—well, I think they should be able to hear what the objectors are saying, and then it might be a better amendment for all parties concerned. So I agree and I think the government side agrees that we hear the objectors first. I don't think there's any opposition from any committee member here.

**Mr Jim Wilson:** Just on that point, there may not actually be objectors to section 3, but the hydro-electric people may want to comment on it and I think we should just hear that.

**Mr Ruprecht:** Just to make it unanimous, Mr Chair, I would agree as well. Let's just do that and get on with it.

**The Chair:** If you'd like to, we can then hear from Hydro. My only concern is that all the parties be aware of the intent of the amendment.

**Mr Hansen:** Mr Chair, can you not take direction from this committee?

**The Chair:** Legislative counsel would like to speak to all parties, and I would suggest that prior to hearing from Hydro, we allow legislative counsel to do that. I would suggest that we adjourn for five minutes, please.

The committee recessed at 1056 and resumed at 1105.

**The Chair:** I'd like to call this meeting back to order. As we were discussing at length section 3 of the bill, I'm wondering if we could have the interested parties in regards to Burlington Hydro come forth. Could you identify yourselves?

**Ms Anne Wingfield:** Yes, Mr Chairman. My name's Anne Wingfield and I'm chairman of Burlington Hydro. Our legal counsel here is Tony Maddalena from the firm of Evans, Philp in Hamilton, and our general manager, Mr Donald Kelly.

Thank you very much for giving me the opportunity to address this bill. I'd just like to read you two quick sentences to start off with.

Hydro-electric distribution within the municipality area of Burlington is accomplished by means of an interconnected grid. Generally, system additions benefit the grid as a whole, and the location of particular components is dictated by technical optimization and not by geographical considerations. Service standards are established on a system-wide basis.

It is the opinion of the Burlington Hydro-Electric Commission that election by general vote is the preferred method of representation. The commission is opposed to vesting the right of change in this process with city council.

I would just like to make a couple of comments regarding my statement. Burlington Hydro is one of about 312 municipalities in Ontario, and of all the municipalities—barring a few who are appointed, maybe five—only one has election by ward system. There are communities far, far larger than Burlington that have city-wide election. Take the city of North York, for instance.

The system works. I have run in three elections. We have had no scarcity of officials seeking office for Burlington Hydro. We have had between 12 and 20 citizens



running for office in our committee for the four elected positions.

One concern would be that if you went by a ward system, maybe the people wouldn't maintain the same interest, because our mandate would be different. When I get calls from people regarding Hydro matters, I would certainly not want to say: "I don't represent your ward. You'll have to phone another commissioner." I don't think that's Hydro's mandate.

In the presentation by the city, they mentioned the positive aspects of having a ward system, but I don't know any positive aspects. I wouldn't mind hearing something about that.

I'm open to answer any questions. My last comment would be, "It's not broken; don't fix it." The system's been working well and I feel that it should be left as is.

**The Chair:** Thank you, Ms Wingfield. Any questions?

**Mr Ruprecht:** You're making some very interesting comments, Ms Wingfield. I'm just wondering, as you mentioned the other municipalities, do you know of any municipality yourself? Have you heard anything in terms of—

**Ms Wingfield:** Milton is the only one that does it by ward system, and has for many years. They're the only one, except maybe in the Kitchener area. With regional government they combine, say, maybe North Dumfries and another community, so they have to even out, so they have to have representation from the two areas. But Milton is the only one I'm familiar with that goes by ward system.

**Mr Ruprecht:** And you've never heard of a problem across Ontario in any of the municipalities?

**Ms Wingfield:** No, none, and I'm very active in the Municipal Electrical Association—I am now a member of their board—and I am not aware of any.

**Mr Ruprecht:** I was very interested in what MPP Jackson had to say earlier, that there could be a lack of officials running and that they would have to offload occasionally. As you have been familiar with the municipal systems across Ontario, did you run across this before, or have you heard about the Burlington experience?

**Ms Wingfield:** I'm sorry. This man was smacking on the table, and it just detracted from my hearing of what you were saying.

**Mr Ruprecht:** Maybe I didn't speak loud enough. Mr Jackson had mentioned earlier—and normally he makes a great deal of sense, and when I listen to him—

**Mr Mills:** Normally.

**Mr Ruprecht:** Yes, normally. When I listen to him, I'm somewhat swayed by his logical arguments. Being familiar with the municipal systems across Ontario, have you heard about the Burlington experience before, that they were sometimes forced to offload and could not get a sufficient number of people representing certain wards? Had you heard about that experience before?

**Ms Wingfield:** I haven't personally. I know there were hard feelings when the ward system provincially was

changed, but what you've mentioned, no, I can't honestly say I've—

**Mr Ruprecht:** Did you hear Mr Jackson's comments earlier?

**Ms Wingfield:** Yes, I did. No, I can't honestly say that.

1110

**Mr Leo Jordan (Lanark-Renfrew):** My question is to the parliamentary assistant to the Minister of Municipal Affairs. It's my understanding that the government is moving towards an appointed board for Hydro. I was wondering if you might clarify it for the committee. Is that as we interpret it to be, that in the future that is the objective of the government, that Hydro boards will appointed by municipal council and be an arm of council? Would you please clarify that for us at this time?

**Mr Mills:** In this particular instance here, Municipal Affairs is supportive of election on the ward system for a number of reasons. One reason uppermost is that it's greater accountability. It's less cost to candidates, and I think we understand that: If you're running for public utilities in a city, the cost is detrimental to a number of people even submitting their names because it's such a horrendous cost.

Ward representation rather than city-wide allows many more people to participate in running. It affords greater democracy. It offers fewer barriers, as I said, to participation. In answer to your question, I suppose it's not unusual that the Ministry of Municipal Affairs has at this moment five or six requests to go to the ward system of election as opposed to city-wide. So it's consistent with the way things are going.

I don't want to get into the discussion about the London annexation, which is unique. I guess that's what you're leading into. Also, I would like to say that Municipal Affairs has no objection to any amendment being put in to allow the city to revert back to an election at large whenever. So we're supportive of it.

Perhaps this is a good time. I have a letter that I should read into the record from Ontario Hydro and Lawrence E. Leonoff, vice-president, general counsel and secretary. This letter is directed to Mr Edward Cierniega, QC, director of the legal branch, Ministry of Energy.

"Re The City of Burlington Act, 1992: We have received a second draft of the above-noted act, a copy of which is attached. It addresses our concerns raised in my letter to you of June 25, 1991, and is acceptable to Ontario Hydro."

I've read that into the record, and that would indicate the approval of Ontario Hydro to this section.

**Mr Anthony Perruzza (Downsview):** I'm rather interested by some of the comments that have been made by Ms Wingfield. I come from the city of North York, and for me, the issue of accountability has always been very important. I've watched, over the years, the North York hydro commission elections and how these poor fellows are forced to run across the city and expend so much money putting up all those signs all over the city. At the end of the day, it seems to me that it's the ABCs, the first on the



ballot, who generally garner most of the votes, without any information on the candidates. They don't circulate flyers or things of that nature, because you can understand, with so many households in the city of North York, that the costs would simply be horrendous in terms of running for the election. I would question whether that kind of process was open to the people who were interested in serving on the board.

As a citizen and as a ratepayer, you sit there and you're forced to make a decision with no information on the candidates, more often than not. There's generally 10, 11, 12, 13 people who run for three positions, and you're just forced to make the decision based on signs on the street and people's names. I think if you check the history of North York elections, you'll find that the people with the letters A like Anderson and B for Better and so on are the people who generally win the elections because they happen to be the first names on the ballot.

**Ms Wingfield:** I'm a Wingfield, and I won.

**Mr Perruzza:** You know what? It's surprising, but it's the people at the top and the people at the bottom of the alphabet who have the best chances, because what happens is, you either stop at the first name and say, "I'm going to vote for Mr A," or you read through all of them and say, "I know none of them, so I'm going to vote for Mr X," because now you're at the bottom of the list. Generally, that's the way it happens. It's really regrettable that that is the case, because most North Yorkers, when you ask them who their Hydro representatives are, they don't even know they elected Hydro representatives. I wanted to know if you had any comments to make to that.

**Ms Wingfield:** I don't like to draw this procedure, but if you lived in Burlington, you'd know me and you'd have one of my pamphlets at your door. I think it's up to the individual who is casting the ballot to find out the history of the candidates who are running. I wouldn't want to go in to tick off a name on a ballot. I feel you should probably ask some questions, phone up Hydro. My name is certainly very visible in the community, as are the other commissioners'. It's sent out on notices with our Hydro bills and, judging from the calls I get, people certainly know how to get hold of you if they have a problem.

As far as running city-wide, it's fun, it's fun. I'll tell you, you lose weight when you're knocking on doors city-wide as opposed to a ward system. I enjoy it and I think it's the fairest way for a Hydro commissioner to go. As far as the cost is concerned, I draw up a budget and stick within my budget. I elect not to put up signs. We have public forums where people can come and ask the commissioners questions, so there are other avenues available to you if you really want to find out.

The main thing is that people just want to be able to turn that light switch on and get hydro, and that's what Burlington Hydro does: provides good service.

**Mr Perruzza:** I'm pleased to hear some of the things you've had to say. It would appear that you're one of the very few exceptions because again, in the North York case, the contact that the ratepayers and the citizens of the city have with their elected Hydro—I have to tell you, I'm an

MPP, I've been a councillor in the city, I was a trustee in the city of North York, so I've been around for quite some time, and I can name you one of the Hydro commissioners here today, but I can't name the other two. I don't know whether Better got back on the commission or got off the commission, but I can't tell you who the third commissioner is. I can tell you that Carl Anderson is there, because obviously I've had some dealings with him.

Coming from North York, having been an elected official in the city of North York for a number of years, I can't name—and I'm ashamed to say this—the other two elected Hydro commissioners. I can name you one and that's a real shame, and if I can't do it, I'd hate to take a survey in my riding or across the city on the representatives of the commission—

**Ms Wingfield:** You leave me your business card and I'll get North York Hydro to send you the names.

**Mr Perruzza:** Please do, because I think that's an important thing for me to know, absolutely. Any process whereby you give the ratepayers a little more control and a little more familiarity with their elected representatives and the people who are going to make decisions that are going to impact on their lives, I have no hesitation in supporting that kind of process.

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**Mr Hansen:** I just wanted to find out: Every municipality has different bylaws, but if I were living in ward 1, could I run in ward 4, or would I have to run in the ward I'm in in Burlington?

**Mr Mulkewich:** You can run in any ward.

**Mr Hansen:** Okay. That's good. I just want to come back to electing four members to the board across Burlington. In Thorold, just west of me, the whole council is elected, the whole area, and what happens is that the cost of running is quite high. It seems to me that the people who are picked are in the highly populated area of Thorold; the outlying members, if they run, have little chance of ever getting elected because few people know them in the centre core of Thorold. I do have some problems of running completely all the way around, and I'd like to see a ward system, but I think that should be left up to the municipality on the layout. Some municipalities are more compact than others, some of them have rural areas in them also. I just wanted to bring those points across. There's a plus or minus on every side of the story.

**Mrs Sullivan:** Mr Chairman, without intending to cut anybody off who wants to participate further in the dialogue on this issue, legislative counsel has distributed a motion which looks as if it will provide the flexibility to deal with the issues that have been put before us, both by council and by the objectors, the hydro-electric commission of Burlington. If we could move our attention to the proposed amendment, not yet moved, that may well assist in terms of dealing with this particular section of the bill so that we can move on to other sections of the bill, which will also certainly create some dialogue.

**The Chair:** There is a minor technicality. I believe everyone has a copy of the amendment. We can't move it



until we get to clause-by-clause. However, as we have it before us, we can certainly discuss it.

**Mr Jackson:** Mr Chairman, on the motion which my colleague will be pleased to move when you determine it's the appropriate time, in discussions with legislative counsel, we'd like to note the following changes that are before members with their bylaw in the section 3, reading mid-point, "The council of the city of Burlington may provide by bylaw, passed at least one year before a municipal election," and further that in subsection (a) "The members of the Burlington Hydro-Electric Commission, other than the mayor, shall be elected at large"—insert the words "at large"—"by a general vote of the elections of the city."

Those are two changes I've suggested to counsel, which she concurs further clarify and protects the—because it's not completely understood that all the electors of Burlington elect everybody. Section 1, in my view, was deficient in determining that it was across town. Counsel concurs with that suggestion, and my colleague Mr Jordan will be pleased, when you call upon him, to move it. I just wish to clarify for the committee that that wording may perhaps be a final draft acceptable to most parties.

**The Chair:** That's very helpful, thank you. I believe those points have been noted.

Anything further on section 3? Are there other parties interested in section 3 of this bill? Then thank you very much, Ms Wingfield.

**Mr Perruzza:** Mr Chairman, could we hear back from the applicant on the changes?

**The Chair:** Yes.

Can we then hear from Mr Cumming and Ms MacLean, please? Ms MacLean is with Cassels, Brock and Blackwell, and Mr Cumming is a senior director of Canadian Tire.

**Ms Virginia MacLean:** Thank you for hearing us. Mr Chairman, I think you have before you a further letter prepared today outlining our concerns with respect to section 2 of the city of Burlington bill.

Our specific concerns as they relate to the Canadian Tire corporation stem from the fact that Canadian Tire is a large retailer, as you all know, right across Ontario. The amendment that is being sought, section 2 specifically, in a sense is an amendment to an existing section of the general legislation.

Under the Planning Act currently, municipalities, in reviewing the site plans and drawings for site plan approval, do not have the right to approve the colour, texture and type of materials that are being used. In other words, their powers have been specifically limited by the Legislature so that they cannot have that kind of approval.

The city of Burlington is now asking for something that no other municipality in Ontario has. Our major concern is not only what could happen in Burlington, but that this could become the tip of the iceberg and result in general legislation. Mr Chairman, if that is the process, we think it should go that way so that ample opportunity is given to everyone who may be affected to input.

With respect to this particular section, Canadian Tire has its own materials and its own colour scheme, which is

part of its corporate image. If municipalities are given the power to determine what that façade should be, they could be interfering directly with Canadian Tire's ability to display its corporate image.

Furthermore, the process, as I understand it—I worked for municipalities for a number of years—is that the staff of the municipality are the people who make the determination as to whether or not something complies with the site plan requirements. So what you are doing is giving to staff the subjective power to make a determination as to what is appropriate in terms of building materials and colour schemes. In our opinion, this is not appropriate, and for this reason we're asking that this section not go forward.

Mr Cumming is with me, and if you have any questions relating to Canadian Tire and its corporate image, he'd be pleased to answer them.

**Mr Craig Cumming:** Canadian Tire's policy has always been that, with respect to its corporate image, it is subject to negotiation with municipalities. I think most people who have been representatives in municipalities are in agreement that, while we like to be distinctive, we also like to meld in with the rest of the surroundings. We like to be able to negotiate with municipalities with respect to how we fit within a specific area, and we'd like that to remain.

**The Chair:** Thank you. Any questions for Ms MacLean or Mr Cumming?

**Mr Perruzza:** I understand some of the difficulties associated with this particular section and I can understand why the ministry would have some difficulty with it at this time, but to go back to a comment you made about regulating colour and exterior building materials and that kind of thing, do you think that is really an inappropriate thing for municipalities to be doing, to try to preserve the cultural heritage of the towns and cities across Ontario?

**Ms MacLean:** Mr Perruzza, if you're speaking from a philosophical standpoint, I would suggest that this was addressed when the Planning Act came out, and that kind of control was deliberately excluded. At some point in time it was determined that the municipality shouldn't have that kind of detailed control, basically because it's subjective, and one member of planning staff may have a different opinion from the other.

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**Mr Perruzza:** Do you know of any other examples across North America where municipalities have that kind of control?

**Ms MacLean:** I'm not familiar with planning across North America, so I can't answer that question.

**Mr Perruzza:** Have you ever been to Quebec City?

**Ms MacLean:** Yes, I have.

**Mr Perruzza:** The older part of Quebec City? Could you imagine a Canadian Tire, with its flashy red all over it, in the centre of Quebec City or on the hilltop in Quebec City?

**Ms MacLean:** I think Mr Cumming can answer it. They do have one in Quebec City.

**Mr Cumming:** We have seven stores in Quebec City.

**Mr Perruzza:** Yes, I know, but have you been to the older parts of Quebec City, the hilltop and just below the hilltop?

**Mr Cumming:** Absolutely. Several times, yes.

**Mr Perruzza:** This is something I hope would come back to us at some point, because it's certainly something that I'd be interested in. I don't think it would take away in any way from private corporate interests to construct and use the kinds of materials they want to, still giving local municipalities some control to be able to shape the look of the towns and cities and to preserve some of the heritage areas. To me, this is not something that's foreign or should be alien, and it's something I would support in the future. Mr Mills can take that back to the Ministry of Municipal Affairs and hopefully draft something.

**Mr Mills:** Listen to what I have to say.

**Mr Perruzza:** Good.

**The Chair:** I'm looking forward to that.

But first we have the opportunity of hearing from Mr Fletcher and then Mr Jackson.

**Mr Fletcher:** I'm addressing my question more to the mayor, and the part "no persons shall undertake any developments." Is that new development that this bylaw would have jurisdiction over or existing development?

**Mr Mulkewich:** My understanding is that it's all development. Is that correct? The planning director may wish to speak to that, but I understand it's all development.

**Mr Gary Goodman:** It would apply to anything that a site plan approval—

**The Chair:** Just a minute. Speak into the mike for Hansard.

**Mr Goodman:** It would apply to any application for site plan approval, but in the most part it would apply to new buildings.

**Mr Fletcher:** What if a grandfather clause, development after the year 1991, 1992 or something—would that be—

**Mr Goodman:** New development.

**Mr Fletcher:** New development. That's what I'm looking at because existing businesses are already there. If they were to tear down their store and build a new store, they would have to go through the process.

**Mr Goodman:** It's been suggested I state my name. I'm Gary Goodman. I'm the executive director of planning and development with the city of Burlington. Certainly the intention behind this request is to have a little more balance in our negotiations with people building new buildings.

I could imagine a situation where someone was substantially changing an existing building where we might like to have that debate as well. It has never come up that I can recall, so if in order to get this type of legislation available to us we had it limited to new projects, I think that would be a reasonable start.

**Ms MacLean:** The term "development" is defined in the Planning Act, section 41, so that if they're going to deal with it, it has to fall within that definition. It talks

about substantially increasing the size or useability, so it includes not only new development but any additions to an existing development.

**Mr Fletcher:** That's why I was looking at a grandfather clause.

**Mr Jackson:** I may have missed some of the dialogue, but I may not have with respect to raising the concerns in section 2. I know that the Burlington Chamber of Commerce has expressed concern about this section, and for several reasons.

Most of the genesis of this clause comes from an incident which occurred on Fairview Street in our community, where the owner of a building redid the façade of the building in a bright yellow colour of aluminum siding, and it had the visual image of being something like a sign. This was in response to what some have referred to as perhaps the most restrictive sign bylaw in the province, which our community has, and some have argued for or against that point.

But the chamber has argued that perhaps using this clause is too large a tool or too much control on the part of the city to deal with these matters. It has been argued, for example, that the chamber works very hard at getting local materials. Our steel industry is desperate in Hamilton and we very much are trying to use steel, with its very inexpensive price and its high labour content, in building construction. This allows municipalities to say: "No, that's not a consideration. We're most interested in this or that type of construction."

When Mr Goodman, who I've worked with for years, says it gives more balance, in fact it gives absolutely more control, and this becomes a negotiating tool. "You give us more square footage, you give us more parking dedication and we'll allow you to have the colour you wish." That is the reality of what goes on in this province, whether we want to admit it or not.

Members will vote on this the way they wish, but they must realize this is a major intrusion and a major jump forward in terms of giving site plan approval more power.

The final example in my community—and I'll share it with you because my friends in the NDP will be very interested in this—is that this can be used as a tool to frustrate social housing developments, because they're included in this. It's easy to say, "Okay, we'll punish Canadian Tire; they're easy to punish because they're big business," but the fact of the matter is that we're also looking at residential units and social development units. There is currently a controversy in the community of Burlington, and it centres around this. There is an attempt to frustrate the project by driving the requirements for the external façade—

**Mr Perruzza:** Point of order.

**The Chair:** Mr Perruzza.

**Mr Perruzza:** Mr Jackson is crystal ball gazing. I think Mr Mills has some very valuable information for all of the committee.

**The Chair:** Please proceed, Mr Jackson.

**Mr Jackson:** In conclusion, there is a serious effort to drive the unit costs beyond the threshold that's established



by the provincial Ministry of Housing, which can frustrate a project to the point that it can't succeed. It can be used as a tool to respond to public pressures that a certain housing development shouldn't go in that neighbourhood.

I really feel that something as substantive as this, coming to us without a lot of legal explanation, is risky, and I at least have on record the concerns from the chamber of commerce and from certain social housing groups which are concerned about councils being able to frustrate a project in this fashion. I put them on the record, and I appreciate the Chair's and Mr Perruzza's indulgence. But it's not crystal ball gazing; these are incidents that are occurring currently in the community of Burlington. I'd rather talk about Quebec City too.

**The Chair:** Gentlemen, excuse me. We have comments now from the parliamentary assistant.

**Mr Mills:** I'd like to state the position of the Ministry of Municipal Affairs. We feel that it's premature to support private legislation for one city on an issue with general application in advance of the ongoing review by the Sewell commission. Secondly, the Ministry of Municipal Affairs, and Housing, feel that this proposal, as currently drafted, has potential for abuse in the absence of specific design criteria. Thirdly, the proposal, as Mr Jackson has already pointed out, has cost implications for affordable housing.

Having said that, at the appropriate time we're going to move a motion, but in the interim, to help people understand this more fully, I have two staff people with me: Diana Dewar, a manager in the policy branch of the Ministry of Municipal Affairs, and Jeff Levitt, who's a solicitor with the Ministry of Housing. I ask, Mr Chairman, that the opportunity be given for these two staff members to make comment to help the committee come to grips with this issue.

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**Ms Diana Dewar:** It's already been pointed out that section 41 of the Planning Act excludes architectural detail from site plan control and that this bill would essentially exempt the city of Burlington from the existing statutory limitations of the Planning Act.

The Sewell commission is currently reviewing the planning process and is looking at this matter specifically. The commission is recommending that site plan control should not be expanded to include colour, texture, type of materials, windows or architectural detail. The commission is currently consulting publicly on this issue and the commission's consultation would be the appropriate forum for dealing with this issue for all municipalities rather than specifically for one municipality.

The site plan provisions of the existing act specifically exclude architectural design as it was recognized that building aesthetics involved subjective judgements and that it would be difficult for officials and the Ontario Municipal Board to make these judgements.

**Mr Jeff Levitt:** The comments I have are from the point of view of the Building Code Act and the building code administered by the Ministry of Housing. The Building Code Act authorizes the building code regulation which sets a province-wide set of construction standards,

including standards for construction materials. In fact, the purpose of enacting the Building Code Act in 1974 was to replace the then existing municipal building codes with one provincial set of standards with a uniform set of safety and construction requirements.

Section 2 of the Burlington bill in effect seeks to set local construction standards in respect of construction materials outside the ambit of the building code, which is in effect a return to a local variation of a municipal building code which weakens the province-wide principle of uniformity in construction standards and materials.

The problem with section 2 dealing with a construction matter comes up with a very possible conflict with section 27 of the Building Code Act, which states that the Building Code Act and the building code supersede municipal by-laws in respect of construction or demolition of buildings.

An additional problem with the local control over construction material deals with the fact that, as I understand it, site plans are generally dealt with by the clerk's department or planning department and site plan matters appealable to the Ontario Municipal Board. Neither of these have technical expertise in the construction aspects in terms of relating the types of material used in the construction to their fire safety and other construction requirements of the building code, thereby indicating that it's not an appropriate place to deal with what is essentially a construction matter.

Finally, I would like to reinforce the point that there are no limits on the discretion in terms of the types of material. Quite clearly, the type of material used can affect the cost of a building and thereby be used for, again, exclusionary purposes, which could have an impact on affordability of housing or the cost and delivery of social and non-profit housing.

**The Chair:** Mr Parliamentary Assistant, further comments?

**Mr Mills:** I'd just like to make a correction that I am not recommending a motion be moved on this section, but rather that the committee as a whole vote against it.

**The Chair:** Any questions for the parliamentary assistant?

**Mr Eddy:** I believe what you're pointing out, or what the legal people are pointing out, is that this amendment would supersede the Ontario Building Code and I don't believe that to be true. If that's the case, it can easily be protected and included.

I disagree with some of the views, having had some experience. It was mentioned by another member about a bright red barn. How would you like a nice red barn situated on a hill in the middle of a completely natural and rural scene? I've had that experience. There is need. I'm amazed at the distrust of municipal councils that are elected by the people. Usually municipal councillors, especially if they wish to be re-elected, listen to the people who want to talk to them. Maybe that's the concern here, that they will listen.

I think there's a great need for protection in many of the areas and especially the older areas. I don't have the same concern for new development in new areas. I have



concern about the possibility of things going into the older areas and what should be designated, perhaps, as heritage areas. Quebec City was mentioned, so there is need for protection.

I also want to disagree with the parliamentary assistant and those who have said we can't have special legislation on these things, because the history of municipal government in Ontario will show that we indeed had to have special legislation or there would have been no progress in municipal legislation, or very little, in Ontario. It's the leaders who show us the way in many cases. Perhaps there needs to be some change in the wording, and I hope we have the opportunity to have a response from the city of Burlington officials; I had asked for that before.

**The Chair:** I believe there should be. Mr Hansen and Mr Perruzza, we are close to the noon hour. I'm sure you will be cognizant of that.

**Mr Hansen:** I would say that this is a very important piece of legislation. I don't agree completely with Mr Eddy. I have to side with Canadian Tire. Just to take an instance—it's not a building, but if I were to run in an election in Burlington and they didn't allow me to put up green signs and I had to put up blue signs, I would be quite offended. I think it comes down to the corporate image there also: The sign going up, Canadian Tire, has its certain colours—I didn't say red.

I think it's getting to the point that it would change the identity of a lot of corporations on the colours they use: inside the store they can use it, but outside, no, they can't. I think people will dictate, in that if a gaudy building were put up, the people in the community would object and boycott the store if it didn't fit in.

The other thing is that we have to take a look at the heritage issue. If it's going into a particular area, if the town has designated that particular block a heritage block, they would have to conform to the heritage building.

I don't see that there's a problem there, but I do have a problem with this particular clause. When it comes time to vote on it, I feel the other members of the government also will be voting it down.

**Mr Perruzza:** I have a question for Mr Mills. I understand that a provision like this is being looked at right now or being studied by a commission, to look at making it a uniform policy across the province of Ontario.

**Mr Mills:** You're right, Mr Perruzza. It is under study.

**Mr Perruzza:** That clears up a lot in my mind in terms of whether I'd be able to support this, in an isolated individual case or as something that should be a provincial standard and should be more province-wide.

I have to tell you, I agree with Mr Eddy. I understand that he has eons of years of municipal experience and can appreciate the kinds of frustrations that our municipal counterparts have to undergo.

To expand a little on what Mr Hansen has said, you go through some of these little towns where they've been successful in preserving the heritage and the façades of the buildings, and the developers and the good corporate interests out there have acceded to municipal wishes, because, quite frankly, it only helps them out if they create the ambiance

and the façades that attract people and attract tourists and make it a pleasant place to visit and spend money and so on and so forth. In no way does it detract from corporate.

I'll move the motion to strike section 2 from this bill, to delete it from the bill. You don't want a motion to delete it from the bill? Can we have a clarification from Mr Mills, please?

**Mr Mills:** I'd just like to say a couple of things. The Municipal Affairs position at this time is that it is premature in advance of the ongoing review by the Sewell commission. When you look at the Sewell commission, they're saying, "Councils should be encouraged to develop, with full public consultation, design guidelines for appropriate parts of the municipality and include such guidelines in the municipal plan." Also, "Site plan approvals should not be expanded to include colour, texture, type of materials, window or architectural design." I'm saying to you today that we feel that this is premature in advance of the ongoing review by the Sewell commission.

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**Mr Perruzza:** Mr Chairman, in light of that, I guess when we go through the clause-by-clause and get to section 2, I'll be voting against section 2 in this bill.

If I can make one last comment, something Mr Jackson said upset me. We're not against big business. I'm certainly not against big business or any corporate interests. I resent that kind of political, partisan shot.

**The Chair:** Are there further comments on sections 1, 2 or 3?

**Mrs Sullivan:** I believe there was a request for officials from the city to once again speak to section 2 of the bill.

**The Chair:** We're dealing now with section 2. I would suggest at this point that, in addition to section 2, if you would like to make any closing statements before we vote, please do so.

**Mr Grechuk:** Perhaps I can very quickly touch on Mr Jackson's concern, which is also a concern raised by Ms MacLean in her letter, dealing with corporate colours. Specifically, we have dealt with that issue with our site planning process. As a matter of fact, we have the building here that Mr Jackson referred to, if any members would like to see a picture of it.

In that case, the developers came in with basically a square yellow box. We asked them to work with us in terms of redesigning the texture and colour of that building. They had some reservations about doing so, for the very reason of corporate colours, but they did. We managed to preserve their corporate colours and design a new building that looked very user-friendly. As a matter of fact, this company used this building subsequently as a model for many of their subsequent buildings that they built in other municipalities.

With respect to Ms Dewar's comment about the Ontario Municipal Board having difficulty in making judgements on this issue, that precisely is what the OMB is there to do, to make judgements when there's an issue of contention between the parties. One criterion that certainly can be looked at, as Mr Perruzza said, is the surrounding



urban environment; I'm sure the OMB would use that as a criterion to look at site plan appeals.

With respect to Mr Levitt's comment about this being outside the ambit of the code, I disagree. As you can see from the proposed bill, we have made section 2 subject to the Building Code Act. We've done that for two reasons. There was a concern raised by the ministry when we were processing the bill. They wanted to make sure that any materials would be within the scope of the code, and that's the reason for section 2 being subject to the code.

It is not in conflict with section 20 of the Building Code Act, as Mr Levitt indicated, because in that section there is no bylaw being passed. The authority for implementing the site plan control over colour and texture is by virtue of the private bill, no bylaw. So there is no conflict with section 27 of the code.

One final comment with respect to affordable housing. Perhaps I can let Mr Goodman answer that question. We certainly have a document which many of the members might have read about, Future Focus, which is our strategic plan in Burlington. In that plan we certainly hold as a priority non-profit housing, and to try to stifle any kind of non-profit housing through site plan control is certainly unthinkable and contrary to our Future Focus document. Perhaps I can just take one minute to let Mr Goodman comment on that.

**Mr Goodman:** A very brief comment. Lest there be any misjudgement about the comment by Mr Jackson, that controversy he referred to is one in the community, but at the staff and council level. As Mr Grechuk has said, it really would be unthinkable to use site plan measures to attempt to prevent affordable housing from being developed.

We have a really solid track record for a municipality, especially a suburban municipality. We have worked with all the co-op groups, the non-profit groups, and we have a number of fine projects developed. We have at times considered the materials and what not, but it has never become an issue. All those projects have been built in the 1980s and 1990s and continue to be built. If council wished in any way to thwart affordable housing, which it does not—we have really got a solid track record in this area—council has more fundamental avenues available to it.

**Mr Mulkewich:** Could I just sum up on behalf of the city of Burlington, very briefly, by saying that I think the staff has presented the position very well. I smiled through a lot of this, because the debate has happened in the city of Burlington council previous to this and is therefore reminiscent of it. I do want to say that council has approved these positions. We ask for your support and we are in agreement with the amendment that is here.

**The Chair:** As will be forthcoming when we get to clause-by-clause. Thank you very much.

Any further comments or questions? Are we then ready to discuss the clauses?

**Mr Perruzza:** One brief little comment. In section 3, we're going to entertain an amendment, but we haven't heard comments from the city on it.

**Mr Mulkewich:** We just did. We're in agreement with the amendment.

**Mr Fletcher:** On section 3, I just need some clarification on what Mr Jackson was saying, that this can only happen one year before the municipal election.

**The Chair:** Perhaps we can get to that when we get to section 3 in clause-by-clause.

**Mr Fletcher:** I just want to make sure that I know what I'm doing here. I want to make sure that what's going on is going on.

**Mr Jackson:** Do you want me to clarify that while we're waiting?

**The Chair:** I think we should wait until the clause-by-clause. Are we ready to discuss the clauses? Good.

Are we entertaining any amendments to section 1? No. Shall section 1 carry? Carried.

Are there any amendments to section 2? All those in favour of section 2? All opposed to section 2? Defeated.

Are there amendments to section 3?

**Mr Jordan:** I move that section 3 of the bill be struck out and the following substituted:

"Despite section 9 of the Regional Municipality of Halton Act, the council of the city of Burlington may provide by bylaw, passed at least one year before a general municipal election, that

"(a) the members of the Burlington Hydro-Electric Commission, other than the mayor, shall be elected at large by a general vote of the electors of the city; or

"(b) the members shall be elected by the wards described in the bylaw."

**The Chair:** And I'm sure members are cognizant of the changes to the amendment as it was circulated.

**Mr Eddy:** Is counsel in agreement with the additional two changes proposed?

**Ms Mifsud:** Yes. I think it clarified the intent.

**The Chair:** Further discussion? Are we ready then for a vote on the amendment? Shall the amendment to section 3 carry? Carried.

Shall section 3, as amended, carry? Carried.

Is there any discussion on sections 4 through 6? Shall sections 4 through 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you. We are adjourned.

The committee adjourned at 1200.

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- \*Fletcher, Derek (Guelph ND) for Mr Dadamo
- \*Perruzza, Anthony (Downsview ND) for Mr Sutherland

### **Also taking part / Autres participants et participantes:**

Jackson, Cameron (Burlington South/-Sud PC)

\*In attendance / présents

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**Staff / Personnel:** Mifsud, Lucinda, legislative counsel



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## Assemblée législative de l'Ontario

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## Official Report of Debates (Hansard)

Wednesday 25 November 1992

## Journal des débats (Hansard)

Mercredi 25 novembre 1992

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets de loi  
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### **Table des matières**

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 25 November 1992

The committee met at 1005 in committee room 1.

### RAINBOW HALFWAY HOUSE ACT, 1992

Consideration of Bill Pr68, An Act to revive Rainbow Halfway House.

**The Vice-Chair (Mrs Ellen MacKinnon):** Ladies and gentlemen, I call the meeting of the standing committee on regulations and private bills to order. We will proceed with Bill Pr68, an act to revive a halfway house. Its sponsor is Mr Drummond White, MPP. Mr White, would you please introduce the people you have with you?

**Mr Drummond White (Durham Centre):** I'm very pleased to sponsor Bill Pr68, An Act to revive Rainbow Halfway House. With me are Joyce Ostrander, the director and president of the Rainbow Halfway House, and Mr Doug Smail, who, along with his spouse, is a director of the halfway house.

The Rainbow Halfway House is a facility at the very west end of Whitby on Highway 2, and it has for many years received residents from the Whitby Psychiatric Hospital and has, to the best of my knowledge, an excellent record.

The reason a private bill is required is that there was a lapse and the head offices of the halfway house had moved, and therefore the notification wasn't properly received. I believe that all is in order with the public trustee.

Mr Smail, any comments?

**Mr Doug Smail:** Yes. As you said, Drummond, we moved from Agincourt. The head office was in Agincourt and when we moved to Whitby we did not receive notice of a need to renew every five years of the charity.

**The Vice-Chair:** Madam, do you have anything you'd like to add in regard to comments on the bill?

**Ms Joyce Ostrander:** I'd like to thank Mr White for sponsoring it, I'd like to thank the members for recommending the acceptance of it, and the officials and your staff for their patience in helping us to come to this stage without the benefit of a solicitor. I'd like to request that you recommend waiving the fee and the printing costs.

**The Vice-Chair:** Any members with questions or comments?

**Mr Ron Hansen (Lincoln):** It's straightforward.

**The Vice-Chair:** Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Does anyone have a motion on the fees?

**Mr Hansen:** I move that the fees be waived in this case, and the printing.

**The Vice-Chair:** All in favour? Agreed.

I'd like to thank everyone. This is my first time. I'm not doing a good job, but I'll try to do better next time.

**Mr Hansen:** You're an excellent Chair.

Interjections.

**The Vice-Chair:** Well, it was pretty simple.

### P.J. CONSTRUCTION LIMITED ACT, 1992

Consideration of Bill Pr35, An Act to Revive P.J. Construction Limited.

**The Chair (Mr Drummond White):** Next on our agenda is Bill Pr35. On behalf of Mr Cordiano, Mr Eddy is sponsoring.

**Mr Ron Eddy (Brant-Haldimand):** It's my pleasure, in the absence of Mr Cordiano, to introduce Michael Gasch, who is the acting solicitor for P.J. Construction Ltd and will advise you as to why he's here and answer any questions that members of the committee may have.

**Mr Michael Gasch:** First, I'd like to thank Mr Cordiano for sponsoring the bill and Mr Eddy for introducing me.

In a nutshell, P.J. Construction is a company that's been in existence since 1956, has engaged in real estate construction and the holding of real estate property and continues to hold real estate to this day. Some time in 1990 there was a request sent to the Ministry of Consumer and Commercial Relations from an individual who used to be a shareholder of the corporation requesting that her name be deleted from the corporate records as being a director of that corporation. Through the inadvertence of the directors, a new form 1 was not filed, and subsequently there was a notice published in the Ontario Gazette and ultimately the corporation was dissolved before the directors dealt with the requirements of the Ministry of Consumer and Commercial Relations.

As the corporation still holds property which it would like to deal with, it is respectfully requesting that P.J. Construction Ltd be revived.

**The Chair:** Are there any questions of the applicant or sponsor? Hearing none, are there interested parties here present? I don't believe we've received any correspondence. Are there any comments from the government, Mr Parliamentary Assistant?

**Mr Gordon Mills (Durham East):** The corporations tax branch has no difficulty with this and no concerns.

**The Chair:** Are we then ready for a vote on Pr35?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, Mr Eddy and Mr Gasch.

## MODERN OPTICAL LTD. ACT, 1992

Consideration of Bill Pr63, An Act to revive Modern Optical Ltd.

**Mr Mills:** Now we're going to get tough here; lots of questions.

**Mr Jim Wilson (Simcoe West):** I just want to say that Mr Cousens, with his glasses, I'm sure has a conflict.

Interjection.

**Mr Jim Wilson:** I just want to cut off your arguments before we start.

**Mr W. Donald Cousens (Markham):** I'm very pleased to have with me Catherine Sarantopoulos and Peter Plagianakos. This is an effort to revive a company that accidentally become defunct, to revive Modern Optical Ltd. I certainly hope this committee will be as cooperative as I was for the previous two bills that came through.

**The Chair:** Do you have any comments on the bill, sir?

**Mr Peter Plagianakos:** No real comments. I'd just like to thank Mr Cousens for presenting the bill.

**The Chair:** Ms Sarantopoulos?

**Ms Catherine Sarantopoulos:** I have nothing further to add, thank you.

**The Chair:** Any questions for the applicants or the sponsor?

**Mr Jim Wilson:** I gather this is an inadvertent dissolution—

**The Chair:** Excuse me. We have a temporary problem with the sound system. We'll have to recess for a few minutes until proper recording can occur.

The committee recessed at 1013 and resumed at 1021 in committee room 2.

**The Chair:** I'd like to call this meeting of the standing committee on regulations and private bills back to order.

We have before us Mr Cousens, who is presenting Bill Pr63, An Act to revive Modern Optical Ltd.

**Mr Cousens:** Mr Chairman, are we starting over again? I'm very pleased to have a chance to do this twice. Maybe the second time I can really do it right.

I am here with Catherine Sarantopoulos, who is bringing forward this need to revive Modern Optical Ltd, and Peter Plagianakos, the chartered accountant with the firm. It's a company that went defunct and they just want to reactivate it. I'd appreciate your support inasmuch as I've been very supportive of the other bills brought before the committee this morning.

**The Chair:** Ms Sarantopoulos, any comments?

**Ms Sarantopoulos:** I'd just like to thank Mr Cousens for representing us, and that's basically it in a nutshell.

**The Chair:** Mr Plagianakos?

**Mr Plagianakos:** I guess I'd better respond to the earlier question. The reason the company went defunct is that Mr Sarantopoulos had relied on his accountant to file his tax returns and I guess something fell through the cracks: for the first five years they were not being filed. What I do know is that from 1982 and onwards the tax

returns were filed and the money, whatever was owing, was forwarded to the Ministry of Revenue. As to why we didn't file for the first five years, I'm kind of at a loss and Mr Sarantopoulos can't really answer the question. All we can say is that he relied on his accountant to do the filing.

There's some goodwill associated with the company, and because we have filed in the past, we would like to continue Modern Optical. That is the reason we would like to revive the corporation.

**The Chair:** Any questions of the applicant?

**Mr Tony Ruprecht (Parkdale):** I have no question, except to say that if Mr Cousens has studied this and has given us his analysis, I have no reason to object to this.

**The Chair:** Thank you, Mr Ruprecht. Very generous, sir. Further questions?

**Mr Hansen:** Mr Chairman, maybe we should check to see that we've got it recorded this time in case we need Mr Cousens here to go over it for a third time.

**The Chair:** As far as I know, there is no problem with the sound system. In fact, the speaker seems to be working amply well.

Are there any parties here interested? Are there any comments from the parliamentary assistant, Mr Mills?

**Mr Mills:** There are no objections from the Ministry of Revenue, Mr Chairman.

**The Chair:** Are we then ready for a vote?

Shall sections 1 through 3 carry? Agreed.

Shall the preamble carry? Agreed.

Shall the bill carry? Agreed.

Shall I report the bill to the House? Agreed.

Thank you very much, Mr Plagianakos and Ms Sarantopoulos.

**Mr Cousens:** I would like to thank this committee. You've been very kind.

## CITY OF YORK ACT, 1992

Consideration of Bill Pr73, An Act respecting the city of York.

**The Chair:** Next we have Bill Pr73, An Act respecting the City of York. Mr Rizzo is sponsoring. Mr Rizzo, if you could identify your friend, the applicant.

**Mr Tony Rizzo (Oakwood):** I'm here with Mr Bartlett, the solicitor for the city of York, and I am here to support Bill Pr73, An Act respecting the City of York, in order that it may implement bylaws that have been passed by the city council.

**Mr George Bartlett:** The legislation we're seeking is legislation that will enable the city to pass some bylaws to more effectively deal with, basically, property maintenance.

There is a number of aspects to the bylaws we want to pass. One aspect is to require the owners or occupants of properties to cut grass and weeds when they exceed 13 centimetres in height, which, for those who are still working on the imperial system like myself, is 5.1 inches; similarly, to require the owners or occupants to cut grass and weeds on abutting boulevards, which technically are part of the road allowance and not part of the private property but which, if you own a home, you know most people use as



their own private property. It's to extend that bylaw in effect to those lands as well.

The third aspect is that where the owners and occupants of the properties or their predecessors have constructed retaining walls on the boulevard, we want the legislative authority to require them to maintain those retaining walls, rather than the city having to maintain them after the fact at the city's expense.

The fourth aspect, if you wish, deals with the notice requirements. The basic service that's provided is service by registered mail, but when that isn't possible for some reason, like the owner of the property is long gone or it's vacant and the owner's not around and registered mail comes back because the owner cannot be located, then we want the authority to placard the property, which is a procedure that's generally followed on property standards in those sorts of situations. That's the procedure that's authorized by the Planning Act with respect to property standards when service by registered mail is impossible.

That's basically the essence of the legislation we're seeking.

**Mr Jim Wilson:** I have a question, really to the clerk of the committee or research or counsel. It says in point 3 of the compendium that was provided that no precedent had been used in drafting the bill. But it seems to me, having been a member of this committee for a couple of years, that we've seen a lot of these property standards bills. Does that just refer to no precedent within the city of York, or are we looking at a bill that's different from the type of property standards bills we've passed in this committee previously?

**Ms Laura Hopkins:** No, it's not different from the property standards bills you've seen in the past. I used a precedent in preparing the bill for the applicant, but I didn't tell the applicant what precedents had been used.

**Mr Jim Wilson:** I see. Which other cities in the Metro area, for example, have the power to implement this type of bylaw?

**Ms Hopkins:** If I can have a minute to speak with the staff from Municipal Affairs, they're better acquainted with which particular municipalities bills have been prepared for.

**Ms Linda Gray:** A number of municipalities have passed similar legislation. I don't have a complete list with me, but the municipalities include Brampton, North York, the city of Toronto, I believe Richmond Hill.

The new aspect of this bill is the aspect referring to retaining walls. I believe this has not been done before.

**Mr Jim Wilson:** I only ask because something twiggled in my mind that we sent one of these bills back, perhaps last year at some point, dealing with the cutting of grass on boulevards and that sort of thing. I can't remember the reason we sent the bill back.

**Mr Hansen:** I believe that was Mr Perruzza's bill. Either there was a discussion or there were some difficulties. We discussed it at length and came back and passed the bill, but I know there were some concerns. Maybe Mr Perruzza could enlighten us, since it was his bill he brought forward for the municipality.

**Mr Anthony Perruzza (Downsview):** In fact you're right in saying that the city of North York has a similar provision and had a similar bill passed, although there were some queries with respect to cutting the grass in industrial areas, in front of industrial centres on the boulevard sections. At the end of the day the committee, in its wisdom, passed the bill because it felt the city should have that kind of authority in order to keep a clean façade, even in the industrial parks throughout the city.

1030

**Mr Mills:** I think the place Mr Wilson is thinking of is Ottawa. Would you like to speak to that?

**Ms Gray:** I believe that's true. In the bill presented by Ottawa, there was an amendment made to the bill, because Ottawa had wanted at one point, when Ottawa went in and did the work, to charge the fees and deem them as municipal taxes. The change that was made to the Ottawa bill has been reflected in the York bill and in terms of the way the fees are collected.

**Mr Eddy:** There is need for vegetation growth control, and I believe it has been asked by previous governments to pass such legislation to would apply to all municipalities, because indeed, even the most rural of townships in Ontario have problems with some property owners. I'm thinking of subdivisions with vacant lots. The Weed Control Act of the province just doesn't do the thing, because there are problems with the danger of fire, rodents, pests and all this sort of thing. So I'm in favour, but I would hope that the ministry would look at an amendment to the Municipal Act or the Planning Act, probably the Municipal Act, to give all municipalities some type of vegetation control legislation.

**Mr Ruprecht:** I have a question for the parliamentary assistant. Do you know of any other municipality which controls this kind of vegetation problem with animals?

**Mr Mills:** With animals? Two-legged or four? No, I don't.

**The Chair:** Perhaps we can graze along. Any further questions?

**Mr John Sola (Mississauga East):** I'd like to raise a question regarding the maintenance of retaining walls. What is the intent: safety concerns or to prevent eyesores?

**Mr Bartlett:** I guess I'd have to say it's both. It initially starts as an eyesore, but eventually becomes a safety problem.

The provision is restricted to retaining walls that have been constructed by the private property owner, not the city. There are some retaining walls which the city has constructed, and we will continue to be responsible for maintenance. The concern is that others have constructed retaining walls on city property. The city technically could go in and forcefully remove those structures, but that could have consequences on the private property. If they fall into disrepair, we could go in and simply remove them, but that seems not to be in the city's benefit nor the private property owner's benefit. So what we'd rather do is have clear legislative authority that if they are not maintained, we could go in and physically maintain them and keep them up at the expense of the owner.

**Mr Sola:** Does this pertain to private property as well as the public property?

**Mr Bartlett:** It's just for the retaining walls that have been constructed on the boulevard, which is public property, but by the abutting property owner.

**Mr Jim Wilson:** Just a quick question. While I'm supportive of this legislation, just following up on what Mr Eddy suggested, perhaps the parliamentary assistant could indicate whether the ministry is contemplating giving similar legislative authority to all municipalities dealing both with weed and vegetation control and retaining walls. It seems to me a tremendous amount of time is spent in this committee dealing with these particular bills, and there is probably a lot of municipalities out there that don't even realize—I'm sure there are some in my rural part of Ontario that don't even realize they can come here and ask for this type of legislative authority, and there's an expense involved to the municipalities.

**Mr Mills:** I believe that Municipal Affairs looks upon these as a pilot project, and there may well be an omnibus

bill later on down the road to deal with all this, so that every municipality has this option.

**The Chair:** Further questions? Mr Parliamentary Assistant.

**Mr Mills:** There are no complaints from our ministry.

**The Chair:** Are we then ready for a vote on the bill? I don't see that there are any objectors present.

Shall sections 1 through 3 carry? Agreed.

Shall the preamble carry? Agreed.

Shall the bill carry? Agreed.

Shall I report the bill to the House? Agreed.

Thank you very much, Mr Rizzo and Mr Bartlett.

**Mr Bartlett:** Thank you, members.

**The Chair:** We stand adjourned until next week at 10 o'clock.

The committee adjourned at 1035.





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## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

- \***Chair / Président:** White, Drummond (Durham Centre ND)
- \***Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)
  - Dadamo, George (Windsor-Sandwich ND)
- \*Eddy, Ron (Brant-Haldimand L)
  - Farnan, Mike (Cambridge ND)
- \*Hansen, Ron (Lincoln ND)
  - Jordan, W. Leo (Lanark-Renfrew PC)
- \*Mills, Gordon (Durham East/-Est ND)
- \*Ruprecht, Tony (Parkdale L)
- \*Sola, John (Mississauga East/-Est L)
  - Sutherland, Kimble (Oxford ND)
- \*Wilson, Jim (Simcoe West/-Ouest PC)

### **Substitutions / Membres remplaçants:**

- \*Fletcher, Derek (Guelph ND) for Mr Dadamo
- \*Perruzza, Anthony (Downsview ND) for Mr Sutherland

### **Also taking part / Autres participants et participantes:**

Gray, Linda, coordinator, private legislation, Ministry of Municipal Affairs

\*In attendance / présents

**Clerk / Greffière:** Freedman, Lisa

### **Staff / Personnel:**

Hopkins, Laura, legislative counsel  
Klein, Susan, legislative counsel





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ISSN 1180-4319

## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Wednesday 2 December 1992

**Standing committee on  
regulations and private bills**

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Mercredi 2 décembre 1992

**Comité permanent des  
règlements et des projets  
de loi privés**



Chair: Drummond White  
Clerk: Lisa Freedman

Président : Drummond White  
Greffière : Lisa Freedman



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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 2 December 1992

The committee met at 1011 in committee room 1.

**The Chair (Mr Drummond White):** I call this meeting of the standing committee on regulations and private bills to order.

### CITY OF LONDON ACT, 1992

Consideration of Bill Pr65, An Act respecting the City of London.

**The Chair:** First on the agenda is Mrs Cunningham with Bill Pr65, An Act respecting the City of London.

**Mrs Dianne Cunningham (London North):** I am here to sponsor the bill. With me is Mr Bob Blackwell, the solicitor for the city of London, and he is prepared to introduce and speak to the legislation.

**Mr Robert A. Blackwell:** The bill is basically in three parts, and what I propose to do is address each part separately. There is one part to which I understand there is a policy objection, and perhaps it would be easier to deal with the bill in three parts rather than as a whole.

The first part, which comprises sections 1 to 23, pertains to the London Convention Centre Corp. The corporation of the city of London is currently building a convention centre costing about \$30 million. It's a joint project of the city, the province of Ontario and the government of Canada, and is expected to open in September 1993.

The proposal which is before you is for the creation of a corporation to run the convention centre. The corporation really is typical of ones that already exist in centres such as Hamilton, Kitchener, Toronto and Ottawa. It's sort of a garden-variety convention centre corporation: It would have a board of directors which would consist of both elected and non-elected persons, and it would take responsibility for the operation of the centre.

Those are the only remarks I have to make on those sections, Mr Chairman. If you like I can pause now, if you find it more convenient at this point.

**The Chair:** If committee members wish, we could deal with the bill in that way or wait until we've finished.

**Mr Ron Eddy (Brant-Haldimand):** I agree to deal with it section by section. I have no questions regarding this.

**The Chair:** Fine. Please proceed, Mr Blackwell.

**Mr Blackwell:** Oh. Before I leave that, there is one slight amendment that should be made to clause 7(5)(b). I have seen the wording of it provided to me by counsel and have no objection to it.

The next part I'd like to move to is section 24, and this is the section on which there is some difference of opinion between the city of London and the Ministry of Municipal Affairs.

Let me just briefly explain the situation that this is intended to address. About four or five years ago, the city of London embarked on a program to replace a patchwork of

zoning bylaws which covered the city with one comprehensive zoning bylaw. Over the process of four or five years, it has undertaken a review of existing zoning, has retained outside consultants and spent approximately \$1 million, and this resulted in the enactment of a comprehensive zoning bylaw in May 1991.

There are some objections to the bylaw. As a result, as the Planning Act now provides, the bylaw does not come into force until the last of those objections is dealt with. The hearings on those objections are not scheduled to take place until 1993, and the expectation is that they will not be disposed of until the end of 1993. This has the effect of preventing any part of the bylaw from coming into force.

The result is that the city is in effect running two sets of bylaws, involved in the bureaucratic problems that are attendant with that and the cost. What we're asking for is legislation which would enable us to, first of all, designate a specific date on which the bylaw would come into force and, second, to have the right to apply to the Ontario Municipal Board to have it bring into force those portions of the bylaw which are not under appeal.

I can't stress too strongly the fact that London is a municipality of 300,000 people, soon to expand significantly; it has over 125,000 households. What we're looking for really is the right to deal with this particular bylaw so that we can get on with business and get on with the other affairs of the municipality. We brought this matter to the attention of the ministry about a year ago hoping that there would be some general legislation introduced that might cure this. This hasn't surfaced yet and there's no indication exactly when that will occur, so we feel that in order for London to get on with its business and deal with the other affairs it's confronted with, it would be useful to have this legislation.

I might say that there is an amendment to substitute wording in subsection 24(1). The wording itself has been agreed to between the ministry representatives and myself. Their agreement, of course, is not to be taken as their support for this section generally, but if the section passes we would like it passed with an amended subsection (1). Those are my remarks.

**The Chair:** Any comments or questions on section 24?

**Mr Eddy:** I note that Mr Blackwell stated that the city is operating under two zoning bylaws. I just want to assure the members of this committee that any municipality that's forced to operate under two zoning bylaws or two official plans, or both, at the same time—it is just chaotic. It is—well, not impossible, but it's terrible.

**Mr John Sola (Mississauga East):** I just wanted to get the opinion of the parliamentary assistant on this section of the bill.

**Mr Wayne Lessard (Windsor-Walkerville):** I'd be happy to offer the opinion of the Ministry of Municipal Affairs. I just want to point out that I'm the parliamentary assistant to

the Chairman of Management Board and Gord Mills is parliamentary assistant to the Minister of Municipal Affairs, but because of the hearings going on with respect to market value assessment in the city of Toronto, he's unable to be before this committee today.

If he were here, his comments would be that the ministry doesn't support the zoning bylaw and minor variance proposals that are contained in section 24 of the bill. With respect to the remainder of the bill, there is no objection; a couple of minor amendments will be proposed with respect to section 7. However, with respect to section 24, it's the position of the ministry that this would give the city of London planning powers that would be different from other municipalities in the province. The ministry feels that these issues are not appropriate to be dealt with in private legislation and that they are matters that should be dealt with in public legislation which would be applicable and consistent to all municipalities in Ontario.

1020

It's also the opinion that it's premature to support private legislation for one city, that being the city of London, on an issue that should have general application, in advance of the ongoing review of the planning system by the Sewell commission. It's our expectation that as a result of the Sewell commission's work, there will be amendments that may be similar to those that have been requested by the city of London. The Commission on Planning and Development Reform in Ontario was established to undertake a complete review of the planning process and make recommendations on legislative changes and other actions needed to restore confidence in the land use planning system.

There are staff members here from the Ministry of Municipal Affairs who can answer any technical questions that committee members may have with respect to the opinions I've expressed.

**Mr Eddy:** I'd like to respond to that. I think we must be realistic. What is private legislation all about? It's to give legislative authority to municipalities or some other bodies that isn't in general legislation. Of course, we lag behind in general legislation for municipalities by many years; there are many things that should have been changed. Perhaps you're reviewing it to change, but the time frame is somewhat distant, to say the least. I think that's what private legislation is all about, and I support that.

Regarding the Sewell commission, I expect it's going to change the planning process in all municipalities in Ontario, but we can't really put a time frame on that; that's into the future. And when it happens, it happens, and it affects everyone. If it were to affect this particular matter, which I really don't think it would, then so be it, but let's get on with life and let's not sit waiting for the recommendations of the Sewell commission, which will result in a complete and very comprehensive review of the planning process.

As to restoring a great deal of confidence in the planning process, well, there is considerable confidence in the planning process at present, especially by those people who win their cases. If an applicant is turned down, then of course he doesn't have quite as much confidence in the planning process as if he's a winner. That's the way it is and that's the

way it will be when any future changes are made as a result of either the Sewell commission or indeed a comprehensive review of the planning process.

The bill is before us because of a need of the city of London. I feel this will indeed restore confidence to applicants in the planning process in the city of London who may not have it now because of the particular situation. I have to restate: To live with two zoning bylaws in a municipality is just, as I stated before, terrible.

I'm prepared to support it, because I think we should get on with it and face changes in the future.

**Mr Sola:** Mr Eddy has been so eloquent that he's won me over to his side. I'd just like to point out to the committee that quite often this committee has passed legislation which in essence served as a pilot project for the rest of the province, so I think we could take a look at this legislation in the same capacity. That's the reason various cities have had to come before this committee: to be able to clean up problems that were particular to that city at that time, but which other cities took as models to pass similar private legislation, and eventually the province then made it apply universally. So I don't think that should serve as a handicap to us voting in favour of this legislation.

**Mr Ron Hansen (Lincoln):** I was just wondering, with Bill 75 just passed, if there would be any impact on other bylaws. I understand Middlesex has certain bylaws, and I believe a transition team is going to be put into place to make everything consistent in London. Now, if we end up passing this, that transition team has to fix a few more flaws here and there. Will this be a bigger problem for London and the transition team? I don't know whether the ministry or the solicitor can answer this.

**Mr Blackwell:** I'll have a go at that. I think the value in this subsection is that it will enable us to put aside one piece of work we're concentrating on now and devote our energies more fully to the matters of transition that are going to come about. The problem we're faced with is that as long as we have this bylaw—which was passed over a year and a half ago—standing out there unapproved, with people obtaining building permits under old bylaws which are going to disappear, we have a very convoluted, time-consuming, confusing process, as far as the public goes.

Our feeling is that if we could address this situation by bringing portions of the bylaw which aren't under appeal into force, then at least the public would recognize that there is now in place a comprehensive bylaw. The efforts of the city can be taken off monitoring the old bylaws and turned to dealing with the transition matters.

That really is the impact that this has. As I said before, we are now just about going into the Ontario Municipal Board hearings for this particular bylaw. That will take several months, probably late into 1993, and all that time, if we don't get this legislation, we are going to continue to have to administer things under the old set of bylaws and the new bylaw to make sure that everything is in sync. That's just wasteful, and I think it erodes the confidence people have in government. At a time when public confidence in government isn't at an all-time high, I think anything we can do to show the



public that we're not being bureaucratic, that we are being progressive, we should do.

This provision deals with one specific bylaw. The city isn't asking for legislation that deals with every zoning bylaw that will come along in the future. If we pass another zoning bylaw, we're back under the existing rules and we play by the same rules as everybody else. But we feel we have a particular problem with this particular bylaw. We would like to address it, get it out of the way and get on with business, particularly the business of transition.

**Mr Hansen:** I wanted to get a legal opinion from the ministry. Don't tell me, "We've always done it that way." Give me a new approach, okay?

**Mr Lessard:** I thought Mr Hansen's question originally was with respect to Bill 75 and whether there was some conflict. I know that staff from the ministry can respond to that and will respond to Mr Blackwell's other remarks.

However, as to the sections Mr Blackwell is referring to, subsections 24(3) and 24(4), dealing with partial approval of zoning bylaws, I can elaborate on the opinion of the ministry; that is, that it intends to proceed in the direction he is suggesting as soon as the legislative timetable permits. It's the ministry's opinion that at this time it's premature to enact private legislation that might differ from public legislation that's going to be introduced at a later date, and it would cause confusion and would probably have to be repealed when the public legislation is passed. I just want to ask the ministry staff whether they have further comments to add.

1030

**Ms Elaine Ross:** Elaine Ross; I'm a lawyer with Municipal Affairs. I would only point out that the minister in fact announced that this amendment would be made and that we've been working towards that, doing some consultation with the professionals that are involved and with AMO, and that we hope to proceed as soon as the legislative timetable permits.

**Mr Hansen:** Okay, I got a legal answer.

**The Chair:** Was that sufficient for a response? Do you wish a response in regard to Bill 75?

**Mr Hansen:** I guess maybe you should.

**Ms Ross:** I have not worked on Bill 75 and I'm not familiar with it. However, I did run these amendments by the lawyers who were responsible for Bill 75, and they indicated that the amendments wouldn't create a problem either way.

**Mr Eddy:** Mr Chair, I'm pleased about the information about Bill 75, which of course we won't discuss, but I know it's on Mr Hansen's mind because he chairs the finance committee and of course it's gone through the throes of discussing that particular bill.

I see this as a current solution to a current problem. A future solution isn't good enough, because none of us can say what the time frame will be. Although it's more or less looked upon as somewhat current legislation, it's certainly not going to happen this session, and who knows what will happen in the spring? If there is public legislation, it will supersede this perhaps, or indeed repeal; I don't see this as a problem. But I must stress that it's a current solution to a current problem and I think we should deal with it, and I support it.

**Mr Solá:** I notice we've got on file a letter of objection from Mr Jamaludin Ravji. I wonder if he would be present to explain the letter, because from my perusal, he is just filing notice but he's not giving any reason, just notice.

**The Chair:** Is Mr Jamaludin Ravji present? I was informed that he wasn't present. I've certainly read the letter as well, and of course we're all very interested about what it is he's objecting to. He was contacted, and unfortunately that will have to remain a mystery.

**Mrs Elizabeth Witmer (Waterloo North):** I would suggest that we are dealing with a problem that presently exists, and although there is some hint that things are going to change in the future, we all know that time doesn't mean much here. I would suggest that in order to facilitate the planning process we pass this bill. Actually, I have a substitute motion for subsection 24(1) which I'm prepared to read at the appropriate time.

**Mrs Cunningham:** Perhaps it would be appropriate for me to add that I was here a year ago with regard to the Ontario Heritage Act and at that time we had objections from the government. They did say they would be bringing forward comprehensive changes to that act, which everyone is waiting for. If they hadn't allowed London to go ahead at that time, we would not have been able to proceed with the Talbot Block. And we're still waiting for the heritage act amendments.

It's not often that we come: but once a year. Many municipalities are here looking for changes that I think other municipalities would enjoy. In that case, we had a particular reason to come here. We weren't just doing it because we wanted to be different; we had a particular building we had to deal with. I think the example here is exactly the same.

These are really very difficult management times for the city and the county and we're looking for every way we can to make things more convenient and efficient for the public, and less confusing. The bureaucracy is unreal in trying to administer those two pieces of legislation at the city, and this will be cost saving, we hope.

At the appropriate time, perhaps the same person could do both the amendments. It doesn't worry me. Mrs Witmer might do both of them.

**The Chair:** The amendments to section 7 and section 24?

**Mrs Cunningham:** Whichever. Read them in, is the point.

**Mr Lessard:** Mrs Cunningham has mentioned the situation with the Talbot Block in the city of London. It's my submission that that was an exceptional situation that required exceptional response. To me, that's really the responsibility of this committee, to grant special legislation in special cases.

In this case, it would be to provide the city of London with powers that I understand would apply to the entire city, not just one special section of it. It isn't a situation where we should have a pilot project for legislation, as has been suggested. There is the commitment by the minister that there is going to be legislation of general application which will address the concerns in the city of London, and this isn't a case where something like a pilot project or special legislation for the city of London is required, because this is work that is ongoing at present that will result with legislative changes being made to the Planning Act.



**Mr Tony Ruprecht (Parkdale):** I have a question for the parliamentary assistant. I've heard you state an opinion, but I'd like to determine from you whether you are now opposing the changes that are before this committee in terms of section 7 and section 24?

**Mr Lessard:** I'm not opposing the changes to section 7. I'm opposing the whole section 24, as it currently stands. I've seen the amendment and I don't think that would change the opinion.

**The Chair:** Further comments on section 24?

**Mr Eddy:** I'm really concerned about the date. We're dealing with no date; we're dealing with a date some time in the future that something may happen. That is not good enough for the efficient running of anybody's business, even a municipality's.

I think we're here to hear the problem and to assist as much as possible in equipping another elected body to do its job as efficiently as it possibly can. I think this proposed amendment meets those needs. I think we should get on with it. I support it entirely. Let the city of London do its job and then, when we have public legislation presented by the minister in 1993 or 1994 or before September 1995, we will deal with it and maybe the House will pass it. But in the meantime, I think we should deal with this problem. I support it.

**The Chair:** Further comments? Mr Blackwell, the remaining sections of the bill.

**Mr Blackwell:** Sections 25 and 26 sort of address a technical problem. Currently the offence provisions for zoning bylaws and other types of bylaws under the Planning Act are contained in the Planning Act itself. This has posed some technical problems for us in the area of obtaining short-form wording approvals and set fines to enforce some of the provisions of the zoning bylaw and other bylaws, and what we would like to do is simply to have clear authority to put the offence provisions in the bylaws themselves so we can overcome this technical problem of obtaining short-form wording approvals and set fine approvals.

1040

We're particularly interested, for example, in enforcing parking restrictions on front lawns, this type of thing. We would like to do that in the same fashion as on-street parking, by simply issuing offence notices, rather than having to file long-form informations with the provincial court. But we've run into problems in getting the paperwork in a suitable fashion because of the split between the offence occurring under the bylaw and the offence section being in the act. We simply want to have the authority to put the offence provision in the bylaws themselves, as is the custom with other types of bylaws under the Municipal Act. Basically, that is the purpose of those two sections.

**The Chair:** Any comments or questions on sections 25 and 26? Are there additional sections or amendments proposed?

**Mrs Witmer:** I move that clause 7(5)(b) of the bill be amended by adding at the end "so long as it does not extend beyond the term of the council."

**The Chair:** I'm sorry, Ms Witmer. We have amendments being proposed to sections 24 and 7. I would suggest that, if possible, we vote on the earlier sections and then deal with

the amendments. That actually is at variance from what we have done in the past, and I apologize for suggesting that you produce those amendments now. Are we then ready for a vote on sections 1 through 6?

Shall sections 1 through 6 carry? Carried.

Ms Witmer?

**Mrs Witmer:** I move that clause 7(5)(b) of the bill be amended by adding at the end "so long as it does not extend beyond the term of the council."

**The Chair:** Shall the amendment carry? Carried.

Shall section 7, as amended, carry? Carried.

Are we ready for a vote on sections 8 through 23? Shall sections 8 through 23 carry? Carried.

Do we have an amendment to section 24?

**Mrs Witmer:** I move that subsection 24(1) be struck out and the following substituted:

"Zoning bylaws

"(1) Even though under subsections 34(21) and (30) of the Planning Act bylaw no. Z-1 passed by the council of the city on the 21st day of May, 1991, is deemed to have come into force on the day it was passed, the council may by a provision in the bylaw specify a later date on which the bylaw comes into force upon the final disposition of any appeal of the whole or any part of the bylaw."

**Mr Eddy:** The wording has been seen or prepared by legislative counsel, is that correct? They're satisfied with the correctness of the wording as it stands? Okay.

**The Chair:** Are we ready for a vote on the amendment to subsection 24(1)? Shall the amendment to subsection 24(1) carry? Carried.

Shall section 24 carry, as amended?

All in favour? All opposed? Section 24, as amended, carried.

Shall sections 25 through 28 carry? Carried.

Shall the bill carry? Carried.

Shall the title carry? Carried.

Shall the preamble carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, Ms Cunningham and Mr Blackwell.

#### WOMEN IN CRISIS

##### (NORTHUMBERLAND COUNTY) ACT, 1992

Consideration of Bill Pr71, An Act to revive Women in Crisis (Northumberland County).

**The Chair:** Ms Fawcett, could you introduce your colleague, please.

**Mrs Joan M. Fawcett (Northumberland):** I am pleased to sponsor Bill Pr71, An Act to revive Women in Crisis (Northumberland County). With me is Linda Perkins, who will present the case for the reviving of Women in Crisis (Northumberland County).

Through no fault of theirs, really—they wish they didn't have to be here—but through an oversight, this corporation was dissolved, so they would like it to be re-enacted. We also wish to put on record that they are a registered charity and therefore, hopefully, the fees would be waived for the printing of the bill.

**The Chair:** Will someone be moving that? Mr Sola will.



**Ms Linda Perkins:** I'm Linda Perkins. I'm the administrative assistant, and I'm representing the board of directors. We are a shelter for women and children fleeing family violence. We've been incorporated since 1985.

In February of this past year we opened up a thrift shop and contacted the Minister of Consumer and Commercial Relations. The response was that we were no longer incorporated. When I asked why, it was because we were supposed to register after a couple of years, and we had not received any notification in the mail. The reason for that was that when the organization was originally incorporated, it did not have a permanent location, so the chair of the board registered it with her home address. After a couple of years, she moved away, and the organization was never registered in its proper mailing address. That has now been changed. Also, in the financial records there is a clause that states, "Any changes to the address must be forwarded to the Minister of Consumer and Commercial Relations." I would ask that our corporation be revived.

**Mr Ruprecht:** I want to thank Ms Perkins for her explanation, but what really convinced me to vote in favour of this is Ms Fawcett's being with you here today to put in a good word.

**The Chair:** Mr Ruprecht is rarely so generous.

1050

**Mr Hansen:** We've had quite a few organizations coming forward. It's funny that we can't contact them a little better than we're doing if somebody moves away. Everyone in the community would know of this organization, yet the province writes it off as a corporation that's gone out of business. This committee spends so much time and expense with all the companies that come forward: \$1,100 or \$1,200 plus legal fees. We've got to look at a better way to handle this. Maybe we can save you the trip to Queen's Park in future.

We have to take a look. This is a problem. For this committee to spend time doing something that's so simply done—it doesn't have to be done this way. That's just a little advice, and maybe we should get back to the minister on that.

I'll be voting in favour. I haven't any problem at all.

**The Chair:** I'm certainly glad to hear that. It's an excellent suggestion. Hopefully, we can do that in the springtime, not this morning or next Wednesday.

**Mr Hansen:** Mr Chair, you've been doing very well this morning. It looks like we'll get done by 12 o'clock.

**The Chair:** The vote of confidence is noted. Any further comments or questions?

**Mrs Ellen MacKinnon (Lambton):** I read on the bill, An Act to revise Women in Crisis (Northumberland County), then I read the compendium, which says, An Act to revise the Federated Women's Institute of Ontario, Bay of Quinte Branch.

**The Chair:** That's the precedent, not the bill. The other bill was used as a precedent for this bill.

Are we ready for a vote on this bill? Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

**Mr Sola:** I have a motion to ask the committee to waive the fees for Bill Pr71 because they are a charity.

**The Chair:** All in favour? Agreed.

Thank you very much, Ms Perkins, Mrs Fawcett.

#### KITCHENER-WATERLOO HOSPITAL ACT, 1992

Consideration of Bill Pr21, An Act respecting the Kitchener-Waterloo Hospital.

**The Chair:** We move on to Bill Pr21, An Act respecting the Kitchener-Waterloo Hospital, Mr Michael Cooper sponsoring.

**Mr Mike Cooper (Kitchener-Wilmot):** It's my pleasure to be here this morning to sponsor Bill Pr21. We have with us the city solicitor from the city of Kitchener, the city solicitor from the city of Waterloo, the solicitor from the Kitchener-Waterloo Hospital and the president of the Kitchener-Waterloo Hospital. I believe what they would like to do is to present themselves to the committee and then say a few words.

**Mr James Wallace:** My name is Jim Wallace. I'm the city solicitor for the city of Kitchener. I think it's a reflection of the community support for the hospital that you have the cities of Kitchener and Waterloo and the hospital itself all here together. It has been a tradition that it is a community hospital. We have taken some time to review this bill and to bring it into a more modern basis of dealing with a hospital. Mr White is here from the city of Waterloo and Mr Collins; Mr Stevens, solicitor for the Kitchener-Waterloo Hospital, is here.

Briefly, the bill before you has, I understand, four proposed amendments, which we've discussed with legislative counsel. The other parties can speak for themselves, but speaking on behalf of the city of Kitchener, we certainly are in agreement with the amendments which will be proposed to you.

I just want to say that we've worked on this bill for about a year and a half in discussions, because you appreciate that the city of Kitchener and the city of Waterloo actually own the land upon which the hospital buildings sit, and all the parties were well involved in this before we got here. That's basically all I have to say, and would ask the committee to give this bill favourable consideration.

**The Chair:** Thank you, Mr Wallace. Further comments?

**Mr Bill White:** My name is Bill White. I'm the solicitor for the city of Waterloo. My last name is spelled White, but I don't think the Chair and I are related.

I endorse my friend's comments. I accept the amendments on behalf of the city of Waterloo, and I request that the bill be passed.

**Mr Robert Stevens:** Robert Stevens, acting on behalf of the commission and the hospital. We approve and recommend for consideration by this committee the bill itself and also the proposed amendments. We appreciate the help and cooperation we've received from the ministries and legislative counsel, and we're most encouraged by the manner in which this has been dealt with.

**Mr Al Collins:** Al Collins, president and chief executive officer of the Kitchener-Waterloo Hospital. I'm here representing my colleagues who are the members of the hospital commission. I would echo the appreciation for the support we

have received from the Ministry of Health and legislative counsel in drafting this bill. I am here to tell you that the members of the hospital commission are fully in support of the document and the amendments, that have been discussed with us. Just in closing, I would like to again express our appreciation for the members from our area, certainly Mr Michael Cooper, and acknowledge Elizabeth Witmer's support in the past as well, and continued support of the hospital.

**The Chair:** Thank you very much, sir. Any questions on the bill itself?

**Mr Sola:** I'd like to ask if the proposed amendments remove the objections of the ministry, because I notice the ministry has filed an objection with the committee. If this clears the matter up, I propose we go on and vote.

**Mr Lessard:** I can comment on that. The amendments that have been proposed deal with the concerns of the Ministry of Health.

**The Chair:** Any further comments? Are there any objections present? I see none.

Are we ready to pass the sections?

Shall sections 1 through 4 carry? Carried.

**Mr Hansen:** I move that subsection 5(2) of the bill be amended by adding at the end "and shall not be a member of any council mentioned in clause (1)(d)."

**The Chair:** Are we ready for a vote on that amendment? Shall Mr Hansen's amendment carry? Carried.

**Mr Hansen:** I move that subsection 5(8) of the bill be amended by adding at the end "and in accordance with the Public Hospitals Act."

**The Chair:** Are we ready for a vote on this amendment? Shall Mr Hansen's amendment to subsection 5(8) carry? Carried.

Are we ready for a vote on section 5, as amended?

Shall section 5, as amended carry? Carried.

Shall sections 6 through 11 carry? Carried.

Do we have any amendments to section 12?

**Mr Hansen:** I move that section 12 of the bill be amended by striking out "express" in the eleventh line.

**The Chair:** Shall Mr Hansen's amendment to subsection 12 carry? Carried.

**Mr Hansen:** I move that section 12 of the bill be amended by striking out the second sentence.

**The Chair:** Are we ready for a vote on this amendment? Shall Mr Hansen's second amendment to section 12 carry? Carried.

Shall section 12, as amended, carry? Carried.

Are we ready for a vote on sections 13 through 16?

Shall sections 13 through 16 carry? Carried.

Shall the schedule carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, gentlemen.

Before we adjourn, gentlemen and ladies, we have a short discussion. We have a number of bills forthcoming, some of which require some discussion. Is it possible for this committee to meet at 9:30 on December 9 so we can finish this session's business? Fine, thank you. We are adjourned.

The committee adjourned at 1103.











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## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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- \***Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)
  - Dadamo, George (Windsor-Sandwich ND)
- \*Eddy, Ron (Brant-Haldimand L)
  - Farnan, Mike (Cambridge ND)
- \*Hansen, Ron (Lincoln ND)
  - Jordan, W. Leo (Lanark-Renfrew PC)
  - Mills, Gordon (Durham East/-Est ND)
- \*Ruprecht, Tony (Parkdale L)
- \*Sola, John (Mississauga East/-Est L)
  - Sutherland, Kimble (Oxford ND)
  - Wilson, Jim (Simcoe West/-Ouest PC)

\*In attendance / présents

### **Substitutions present / Membres remplaçants présents:**

Cooper, Mike (Kitchener-Wilmot ND) for Mr Farnan  
Cunningham, Dianne (London North/-Nord PC) for Mr Jim Wilson  
Lessard, Wayne (Windsor-Walkerville ND) for Mr Mills  
Perruzza, Anthony (Downsview ND) for Mr Sutherland  
Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Jordan

### **Also taking part / Autres participants et participantes:**

Ross, Elaine, solicitor, Ministry of Municipal Affairs

**Clerk /Greffière:** Freedman, Lisa

### **Staff / Personnel:**

Hopkins, Laura, legislative counsel  
Klein, Susan, legislative counsel





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Second session, 35th Parliament

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 9 December 1992

# Journal des débats (Hansard)

Mercredi 9 décembre 1992

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



Chair: Drummond White  
Clerk: Lisa Freedman

Président : Drummond White  
Greffière : Lisa Freedman

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 9 December 1992

The committee met at 0936 in committee room 1.

**The Chair (Mr Drummond White):** I'd like to call this meeting of the standing committee on regulations and private bills to order.

### DUCLOS POINT PROPERTY OWNERS INC. ACT, 1992

Consideration of Bill Pr79, An Act to revive Duclos Point Property Owners Inc.

**The Chair:** First on our agenda—and I apologize because this agenda will probably be altered over time—is Bill Pr79, An Act to revive Duclos Point Property Owners Inc., sponsored by Larry O'Connor. Larry, would you introduce your friends?

**Mr Larry O'Connor (Durham-York):** I have with me two people representing the Duclos Point property owners. Their legal counsel are Stanley Letofsky and Keith Wright. Could we start by allowing the solicitor to say a few words?

**Mr Stanley Letofsky:** Good morning, Mr Chairman. I am Stan Letofsky, the solicitor for the applicants on this application to revive this corporation. Mr Keith Wright is a director and president of the corporation and one of the applicants who is here today to assist in any questions you might have.

As a matter of background, this is a non-share corporation, incorporated June 3, 1955. In 1957 the company acquired certain vacant recreational park property on Duclos Point on Lake Simcoe. It currently maintains the park and pays the realty taxes and basically supervises social activities shared by its members and their families.

Since 1982 there were no annual information returns filed for this company. Default notices were in fact sent to a particular former member on March 6, 1982, and again on July 26, 1986. The other members of the board were not aware of these default notices, nor were they aware of the notice of dissolution sent on January 27, 1987.

Today there's a seven-member board of directors, and all the members have now been made fully aware of the necessity of filing. Members will now be sure to comply with the annual filings, and we ask that the company's charter be revived so that the lands remain with their rightful owners.

Those are my submissions.

**The Chair:** Thank you very much, sir. Are there any questions of the applicant or sponsor? Mr Parliamentary Assistant?

**Mr Gordon Mills (Durham East):** There are no problems with the ministry. It's fine.

**Mr Ron Hansen (Lincoln):** Are there any objectors to this bill?

**Mr O'Connor:** The notifications were put in a newspaper. The solicitor has copies of the ad he placed, and no objectors have come forward and contacted them about this application at all.

**Mr Hansen:** No other questions, Mr Chair.

**The Chair:** Seeing that there are no objectors, I think we should be ready for a vote.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Agreed.

Shall I report the bill to the House? Agreed.

Thank you very much, gentlemen.

### APOSTOLIC CATHOLIC ASSYRIAN CHURCH OF THE EAST ACT, 1992

Consideration of Bill Pr83, An Act to revive Apostolic Catholic Assyrian Church of the East.

**The Chair:** Next on our agenda, on behalf of Ms Marland, Mr Wilson will be presenting Bill Pr83, An Act to revive Apostolic Catholic Assyrian Church of the East. Mr Wilson, would you introduce your friends?

**Mr Jim Wilson (Simcoe West):** Perhaps I could have the representatives of the church introduce themselves, Mr Chairman.

**Ms Anne Donald:** My name is Anne Donald; I'm with Osler, Hoskin and Harcourt. This is Bishop Emanuel of the church.

**Mr Jim Wilson:** Mr Chairman, on behalf of my colleague Mrs Margaret Marland, I'm pleased to sponsor and introduce An Act to revive Apostolic Catholic Assyrian Church of the East.

Members may be aware of two things. One is that Mrs Marland is unable to be here in person this morning, although she planned to be. She's had an illness in the family and is currently attending a hospital in that regard.

Secondly, I want to begin by thanking all members in all three political parties for, in essence, fast-tracking this piece of legislation to the committee today.

What has happened is an inadvertent dissolution of the corporate status of the church. We're assured by his excellency that it indeed is inadvertent. The church has had the unfortunate happening of—it burned down; our witnesses will perhaps give some background. They're currently rebuilding the church, as I understand it. The problem is that along the way they've discovered that the corporate status lapsed, and the National Bank, which is the church's bank, is reluctant to advance funds until the corporate status is revived.

Having said that, Mr Chairman, I would ask the bishop to elaborate.

**Bishop Emanuel:** Mr Chairman, I would like to ask that, since we have discovered our corporation was dissolved, it be revived. And one thing more: We were not aware that the corporation was dissolved on January 27, 1987. We were informed by our lawyer, Mr Stephen Luff, that we were sent some notice. But unfortunately, I checked with our committee, and it hasn't received any notice, or the notice was sent to our old location, our church at Park Lawn. Since 1987, when the corporation was dissolved, the church has functioned and we have filed annually for taxation for Revenue Canada and

paid property taxes for the land. Really, we were not aware of it till the time it was discovered by our lawyer, after we applied for a loan and it was frozen, that we cannot obtain the loan. We had suffered about two years, rebuilding our church, and went through some difficult process. So we ask your kindness.

**The Chair:** Thank you, your reverence. Are there any questions from committee members? Are there any objectors?

**Mr Jim Wilson:** Just for the record, the applicant is not aware of any objectors, Mr Chairman.

**The Chair:** Mr Parliamentary Assistant, any comments?

**Mr Mills:** No objections at all.

**The Chair:** Are we then ready for a vote?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, your reverence, ma'am.

Do we have a request for a waiver of fees?

**Mr Jim Wilson:** Oh, yes, Mr Chairman, as soon as I find my—

**Mr Rosario Marchese (Fort York):** Mr Chair, let me move this motion.

**Mr Jim Wilson:** I would be happy to have Mr Marchese move my motion.

**Mr Marchese:** I move that we recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on this bill, An Act to revive Apostolic Catholic Assyrian Church of the East.

**The Chair:** Are we agreed? Agreed.

#### TORONTO ATMOSPHERIC FUND ACT, 1992

Consideration of Bill Pr45, An Act to incorporate the Toronto Atmospheric Fund and the Toronto Atmospheric Fund Foundation.

**Mr Marchese:** One of the councillors, Tony O'Donohue, has another meeting at 10 o'clock, and I appreciate your moving the item up. To introduce the people here, they are Tony O'Donohue, city councillor, Peter Tabuns, city councillor, and Dennis Perlin, city solicitor.

I just want to make a few remarks before one or some of the members speak to this. I want to praise the city of Toronto for the initiative and want to say personally that I support the—

**The Chair:** Sorry, we have a major problem. The amendments are not in a form ready to be distributed. I apologize, Mr O'Donohue, knowing that you have a tight schedule. I hope those items will be ready within a very short period of time so you can reappear, but at the moment, I'm sorry; we'll have to stand down.

**Mr Marchese:** Mr Chair, do you mean towards the end of the morning?

**The Chair:** We anticipate it wouldn't take more than—

**Mr Mills:** We didn't get one of the amendments till 8:30.

**The Chair:** Mr Wilson, are you ready?

#### CANADIAN MILLERS' MUTUAL FIRE INSURANCE COMPANY ACT, 1992

Consideration of Bill Pr75, An Act respecting The Canadian Millers' Mutual Fire Insurance Company.

**Mr Jim Wilson:** I would like the committee's indulgence for a moment. I am pleased to introduce, on behalf of my colleague Ms Elizabeth Witmer, an Act respecting The Canadian Millers' Mutual Fire Insurance Company.

The purpose of the act and perhaps a brief background as I'm aware of it: The Canadian Millers' Mutual Fire Insurance Co is operating on a national basis. It seeks the indulgence of members this morning in asking for a couple of exemptions from the Corporations Act.

Those exemptions would enable the company to elect its directors or have its members elect directors by proxy and, secondly, would require it to hold annual meetings each year, at a time fixed by its board of directors, upon the giving of at least seven days' notice of such meeting by mail to its members and advertisement in a newspaper published at or near its head office as required by section 161 of the Corporations Act.

On the second point, due to the company operating on a national basis, it's very difficult for it to get together all of its filings and reports required for its annual meetings within the time frame set out in the Corporations Act. Therefore, they ask for an exemption to that act and propose this formula for giving notice and setting the date for their annual meetings.

I would ask the members of the company to introduce themselves, and perhaps one of them would like to give a further explanation of the bill.

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**Mr Murray Thompson:** I am Murray Thompson, solicitor for the applicant. Mr Donald Cruickshank is manager. Mr Dean Bast is secretary.

Just by way of explanation to introduce it, this is a mutual insurance company where all insureds have one vote, so the purpose of this bill is really to make it more democratic. The company has been in existence since 1878. It has operated continuously since that time.

Two years ago, because of a particular expertise it gained, and that is the insuring of feed and grain mills, it actually became a national company and entered into arrangements to reinsure a great number of risks across the country because of this expertise. Bringing this back to a more democratic system, it finds it very difficult to not have the right to have a proxy with respect to members ranging as far away as British Columbia and Nova Scotia. That is the reason for that interest.

The other fact is that, as an insurance company, it must file its returns by February 28 each year. With the pressing need of approving these returns with such a far-ranging mandate as it has in membership, it is asking not to hold its annual meeting other than during this period of time.

I would also suggest to the members that as a mutual insurance company, it is one of some 50-odd in the province of Ontario, the majority of which are local in the sense that they carry on business only in the township or county where they operate. Accordingly, the purpose is not to change the provisions or to suggest any change of the provisions for the local mutual insurance companies but just to permit them to



operate in a more democratic way with respect to their own operations.

**The Chair:** Any further comments?

**Mr John Sola (Mississauga East):** I just have one question. Is this legislation modelled after any existing statute or will we be setting a precedent with this Bill Pr75?

**Mr Thompson:** It would not be a precedent. It would place them on the same basis as any insurance company other than a mutual insurance company. In other words, they would still have to have their annual meeting every year. They would have the right to proxies at their meetings, but they would be more akin to operating as a joint stock insurance company rather than a mutual insurance company. A federally incorporated mutual insurance company can operate the way they propose, so it is not an exceptional circumstance.

**The Chair:** Are there further questions? Are there any objectors? There is no notification that we're aware of any objectors.

**Mr Mills:** It sets no precedent and there are no objections from the ministry.

**The Chair:** Are we then ready for a vote?  
Shall sections 1 through 4 carry? Carried.  
Shall the preamble carry? Carried.  
Shall the bill carry? Carried.  
Shall I report the bill to the House? Agreed.

#### INSTITUTE FOR CHRISTIAN STUDIES ACT, 1992

Consideration of Bill Pr64, An Act respecting the Institute for Christian Studies.

**Mr Marchese:** There are two people here who will be speaking to this if I can just locate them.

**The Chair:** Certainly, sir.

**Mr Hansen:** This is Pr64?

**The Chair:** Bill Pr64. We are attempting to do Bill Pr64, Bill Pr61 and Bill Pr78 that Mr Marchese is sponsoring. I understand that there aren't significant debate items on those bills.

**Mr Hansen:** If they're not ready to go, we could go with Pr58.

**The Chair:** Mr Marchese, are your applicants present?

**Mr Marchese:** I am prepared to simply move that without the other speakers being here for this, if there are no problems with it.

**The Chair:** Excuse me a moment.

**Mr Marchese:** The bill would amend the degree-granting authority of the Institute for Christian Studies.

**The Chair:** The clerk informs me that the applicants have been here. Excuse me just a moment. Are the applicants here? Mr Harry Fernhout?

**Mr Marchese:** They were here. They went for a coffee. They probably thought it would last a bit longer. But they're not here at the moment.

#### CITY OF TORONTO ACT (NATURAL GAS PURCHASE PROGRAM), 1992

Consideration of Bill Pr61, An Act respecting the City of Toronto.

**The Chair:** Could we move to Bill Pr61, An Act respecting the City of Toronto?

**Mr Marchese:** It's my pleasure to present Bill Pr61 to the committee. Present are Peter Tabuns, city councillor, Bob Wilson and Dennis Perlin, the city solicitor.

There are two primary functions of this bill. It would allow the city of Toronto to establish a direct purchase program to purchase natural gas on behalf of Toronto residents and businesses. The natural gas would then be resold to and distributed by Consumers' Gas. It would also allow the city to establish an energy conservation program for the purpose of reducing energy consumption in the city.

It's my pleasure to support these two bills, and I'll ask Peter to perhaps make some remarks.

**Mr Peter Tabuns:** Due to prior commitments, Mayor Rowlands isn't able to attend the committee this morning and make the presentation for the city. In her absence, she requested that I provide you with an overview of the proposed city initiative on the direct purchase program.

The city currently bulk-purchases natural gas along with Metro Toronto, and for the first time this year one of the city's subsidiary corporations, Cityhome, joined the city-Metro purchasing pool. The ease with which the city added Cityhome requirements to the tender call for natural gas suppliers and had the necessary contract documents finalized suggested that perhaps this arrangement could be offered to the general public residing in Toronto that might be interested in joining the city's pool.

As we reviewed the trends in the market, it became apparent there were many door-to-door marketers seeking to pool residential natural gas requirements for participation in direct purchase arrangements. Concern was raised about the financial stability of some of these marketers and the apparent lack of regulation of their activities. It's possible those residents who otherwise might not participate in a direct purchase program would be encouraged to do so if such a program were city-run or sponsored by the city.

In order to be better apprised of the potential for the city to undertake a city-wide direct purchase of natural gas, the city retained a natural gas industry consultant, who is here this morning, who is an expert in advising on different types of direct purchase arrangements.

Several means of implementing such a program were considered, not only with a view of attempting to return savings on natural gas consumption to program participants, but also to provide a mechanism for promoting overall energy conservation measures.

The city is of the view that this is an innovative program. It mirrors initiatives of the province, particularly the utilities management program being promoted by the Ministry of Energy. The city therefore requests the support of this committee to put this program into action.

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I'd like to now present Dennis Perlin, our city solicitor, who will provide some further background information on Bill Pr61.

**Mr Dennis Perlin:** Mr Chairman, members of the committee, in the interests of time, I perhaps would just indicate that I am here to provide any answers they may have in terms of



the technicalities of the language of the bill. Mr Wilson, from A.E. Sharp, who was the energy consultant who prepared the study that I believe is part of the compendium that has been submitted here, sets the background and the format for the types of programs that the city might be able to enter into if it received approval of this legislation.

At this point, Mr Chairman, I'm prepared to take any questions, and that might be helpful to you and the committee in terms of timing, because I understand there are no problems with the wording of the bill per se other than any amendments.

**The Chair:** Thank you, Mr Perlin. Are there questions from the committee members? None.

**Mr Hansen:** I think it's straightforward, Mr Chair.

**The Chair:** Are there any objectors or interested parties present? Mr Parliamentary Assistant.

**Mr Mills:** The Ministry of Energy has no objections. However, if there are questions from any of the members, there's a member from the minister's office here to answer those. Otherwise, we have no objections at all.

**The Chair:** Any questions? Mr Wilson.

**Mr Jim Wilson:** I note that the minister has written the sponsor, Mr Marchese, and just outlines a couple of cautionary notes. It's a very recent letter. In fact it's dated yesterday. Has the ministry discussed these cautionary notes with the applicants?

**Mr Mills:** Just one moment and I'll get the official from the Ministry of Energy, Mr Helmuth Schumann, to just come forward to the microphone. For the benefit of Hansard, read in your name, sir, and we'll go from there.

**Mr Helmuth Schumann:** My name is Helmuth Schumann. I'm a policy adviser on natural gas distribution issues with the Ministry of Energy. To answer your question as to whether the ministry has discussed the cautionary notes with the city, we have not discussed them with the city.

**Mr Jim Wilson:** It's simply an advisory letter, then, that the minister has sent?

**Mr Schumann:** It's basically to inform the city that we do not object to the bill and to provide advice of that sort, yes.

**Mr Jim Wilson:** Do you already have in place the energy conservation program, or do you want to develop one with the savings from the direct purchase, which is the gist of the bill. You're not going to give everyone a refrigerator or anything like that?

**Mr Perlin:** No, we're not, Mr Wilson.

**Mr Jim Wilson:** As one particular party around here suggested at one time.

**Mr Perlin:** I don't have any knowledge of that, Mr Wilson. No, we're not. We have received the letter, we understand the cautionary notes. In terms of the type of direct purchase program, as you can see in the bill, it provides for a compulsory tendering process or a proposal call process, and these have been going on, you may have noticed, across the country. Winnipeg just recently put out a proposal call in which a company, Munigas, was successful in undertaking that particular direct purchase program.

In terms of the amount of savings and the cautions that are set out in the letter from the minister, we are aware of those from the discussions we've had with the consultant and

obviously we'll be dealing with those when we try to implement the program.

**Mr Jim Wilson:** Are the savings significant in dollar terms?

**Mr Bob Wilson:** The savings, as projected most recently, would provide a saving in the order of \$40 per year for the average residential gas user, gross. It's anticipated that there'd be costs incurred in the administration of the program which would be withheld by the city and some portion of the revenue would be used for the energy conservation program. At present, the estimate is that a city resident would save in the order of \$25 per year after those costs have been deducted.

**Mr Jim Wilson:** Not to prolong the debate, simply in terms of if I was offered a possible \$40 saving as a consumer versus a \$25 saving as a consumer, given that some of the difference will go into administration, as you said, and some into the energy conservation program, what's the public's input into the development of the energy conservation program?

**Mr Tabuns:** Bob, I think, could speak to the difference between the \$40 and \$25, because any natural gas bulk purchase program is going to have administrative costs. We're hoping that by using our own billing systems for water and taxes we can give people rebates rather than issuing cheques, saving on administrative costs.

In terms of people's input into the energy conservation program, before we set up the program we're going to have public hearings at the city so that citizens will have a chance to come down and indicate what their interests are. What we want to do is take the money that we save to reduce the city of Toronto's long-term demand for energy, which I think is consistent with provincial policy and certainly in the interests of the city's economic viability.

**Mr Jim Wilson:** I appreciate that.

**The Chair:** There are no objectors present or interested parties? Are there further questions? Mr Parliamentary Assistant?

**Mr Mills:** No, that's it, Mr Chair. Thank you very much.

**The Chair:** Are we then ready for a vote?

Shall sections 1 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much Mr Tabuns, Mr Wilson and Mr Perlin.

#### INSTITUTE FOR CHRISTIAN STUDIES ACT, 1992

Consideration of Bill Pr64, An Act respecting the Institute for Christian Studies.

**The Chair:** Mr Marchese, I believe your applicants for Bill Pr64, An Act respecting the Institute for Christian Studies, are present now.

**Mr Marchese:** It is my pleasure to present Bill Pr64, An Act respecting the Institute for Christian Studies, and would ask Harry Fernhout, the president, or Brian Walsh, the director, to say a few words to it.

**Dr Harry Fernhout:** I would like to provide a bit of background to this bill and say first of all that we're very appreciative of the assistance we've received from the



minister, Dr Richard Allen, and his staff in preparing this bill and bringing it to the point where it is today.

I'd just like to say a few things about the background of this bill. The Institute for Christian Studies Act was originally passed in 1983, an act which gave us limited degree-granting powers at the master's level and authority to grant a PhD program in cooperation with another university. That's done under a ministerial consent.

In 1985, we notified the minister that we wished to develop a new master's program and seek degree-granting authority for that program. We were informed at that time that the whole matter of the degree-granting rights of free-standing university-level institutions was under review, the so-called Robarts policy was under review, and that our request would have to wait until that review was completed. This was 1985. We were told at the time that this process would not be terribly long and we proceeded to plan the program, to hire a director, to offer courses and so on, on the assumption that the matter would be resolved in due time.

In 1988, we participated actively in the review of the Robarts policy undertaken by the Ontario Council on University Affairs, and carried on along those lines through 1989 and 1990 while that matter was being considered by the OCUA and the ministry.

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In 1991, we learned that the matter of the Robarts policy, the degree-granting authority of freestanding institutions, had been taken up in a larger review of university policy, so we found ourselves in a situation where, after five years or so, we had a number of students who had in good faith enrolled in our program, had completed it, and we found ourselves in an increasingly difficult situation with regard to promoting this program, recruiting for it but not being able to deliver on the normal degree-granting expectations with which our students came to us.

We made a submission to the ministry to proceed along a different route, not to wait for the policy review to be completed, but to go the route of a private member's bill amending the Institute for Christian Studies Act of 1983. That's how we come before you here today with this private member's bill which Mr Marchese has sponsored.

I would just add that we would prefer, of course, if the policy matter had been resolved and there was another mechanism for us to submit programs and have them evaluated and so on, but given the fact that the review of the Robart's policy has not been completed, this seems to be our only available option.

**The Chair:** Thank you very much, sir. Further comments? Are there questions of the applicant?

**Mr Sola:** Did I understand correctly? Did you state that you already have degree-granting powers?

**Dr Fernhout:** That's correct.

**Mr Sola:** If that is the case, what is the difference between this degree of master of worldwide studies or worldview studies compared to the degrees that you already grant?

**Dr Fernhout:** As I mentioned earlier, the 1983 act gives us limited master's degree-granting authority. We have the right to grant a degree for a two-year program of academic study, and that degree is called a master of philosophical

foundations. This is a quite different program. It's a one-year program. It's not a program designed for people going on to doctoral studies, whereas our program is, so this adds a new program and a new degree to our roster.

**Mr Sola:** If I understood correctly, you've been enrolling students in this program since 1985, I think. What have you been doing? How have you been granting them degrees up to this point?

**Dr Fernhout:** We haven't been able to grant them degrees; we've been granting them a certificate. We've had, of course, to avoid the degree language and that's obviously a considerable handicap to us in terms of being able to recruit students for the program and being able to deliver to them what they would normally expect from such a program. The normal expectation of a student is to get a degree for a graduate program of this nature, and we haven't been able to do that.

**Mr Sola:** If Bill Pr64 were to pass, would they retroactively get their degrees if they have certificates? What would the procedure be?

**Dr Fernhout:** I would assume that for a student who has met the requirements of the program, which will remain unchanged by this bill, we would be entitled to give those students a degree, yes.

**Mr Hansen:** Mr Chair, is there anyone here from the Ministry of Colleges and Universities? We see a letter here, but are there any comments they'd like to make?

**The Chair:** Perhaps we could wait until the parliamentary assistant comments.

**Mr Jim Wilson:** I just want to say to the applicants to begin with that I appreciate your frustration with the status of the degree-granting discussion at the Ministry of Education. It's not the first time we've dealt with this issue at this committee. The last time it took the applicant about a year and several appearances to establish a degree-granting institution. You're not asking for that today; you're already established.

The master of worldview studies, you say, is a one-year program. I've looked at the requirements. I'm just wondering, what are the prerequisites?

**Dr Brian Walsh:** The prerequisite would be an undergraduate degree, a four-year undergraduate degree.

**Mr Jim Wilson:** Any undergraduate degree?

**Dr. Walsh:** We would consider anybody with an undergraduate bachelor's degree.

**Mr Jim Wilson:** Is the current title of the certificate "worldview studies"?

**Dr Walsh:** That's right.

**Mr Jim Wilson:** That's the name of the program itself?

**Dr Walsh:** Master's program of worldview studies.

**Mr Jim Wilson:** It just seems a fairly all-encompassing title.

**Dr Walsh:** It's not worldwide studies; it's worldview studies. The whole notion of world views is something which has come into common use in academic circles. In the brief that we sent to the minister supportive of this amendment, we discuss exactly what we mean by worldview studies. Worldview studies is cultural analysis, trying to get to the foundations of a culture.



**Mr Jim Wilson:** I just played devil's advocate on that point so you'd have the opportunity to enter that into the record.

The second part of the bill, which we've not discussed, is the governance of the institute. Do you not have a senate now, or what's the background? How are you governed now?

**Dr Fernhout:** Other than the addition of the four words in the clause that refers to our degree-granting authority, the material that you have before you is the same as the existing bill. The nature and powers of the senate are not changed, but as you know, the whole section needs to be repealed and re-enacted.

**Mr Jim Wilson:** I appreciate that.

**The Chair:** Thank you, Mr Wilson. Any further questions, Mr Hansen?

**Mr Hansen:** No, I'll just wait for the parliamentary assistant.

**The Chair:** Mr Parliamentary Assistant, any objections?

**Mr Mills:** Thank you very much, Mr Chair. There is someone present from Colleges and Universities. There are no objections from that ministry and there are none from ours.

**The Chair:** Mr Hansen, would you like to—

**Mr Hansen:** No, that's fine, Mr Chair.

**The Chair:** You're sure, sir? Are there objectors or interested parties present? None. Mr Wilson?

**Mr Jim Wilson:** The letter from the minister to the institute is kind of a strange letter. It doesn't indicate support; it simply says the ministry won't object. I wonder if the parliamentary assistant wants to put on the record the ministry's support.

**Mr Mills:** All I'd like to say is that there are no objections from the ministry. The representative from the ministry is here, and he tells me that it has no objections, so I'd like to leave it at that.

**Mr Jim Wilson:** Well, that's an interesting political position, one we may want to take up later.

**Mr Marchese:** Mr Wilson speaks appropriately to the issue. It would have been preferable to have said, "We support it," as opposed to, "We have no objection." I think that was the intent and I would like to put it on the record as such.

**Mr Jim Wilson:** It's important for this committee too, because we do deal with these issues from time to time and it would be—the positive language is a little more useful than the negative language.

**Mr Marchese:** I agree.

**Mr Mills:** I think it's just a choice of words. I agree.

**Mr Hansen:** That was why I questioned on that, if there was anybody from the ministry, because it just said "would not object," and it is a little bit loose there.

**The Chair:** Further discussion about the ministry's non-objection? Are we then ready for a vote on Bill Pr64?

**Mr Marchese:** Mr Chair, I have a motion on that. I move that the committee recommend that the fees—

**The Chair:** Mr Marchese, could we move that after we've passed the bill?

**Mr Mills:** One moment, Mr Chair. I believe someone at the back of the room has raised his hand.

**The Chair:** Yes, sir?

**Dr Justin Cooper:** Just an interested party; not an objection.

**The Chair:** Would you care to state your name and come to the microphone. Even inasmuch as you are not an objector, perhaps you could state your interest, sir.

**Dr Cooper:** My name is Justin Cooper and I'm the vice-president, academic, at Redeemer College in Ancaster, Ontario. We are another private degree-granting institution in the province and so have some interest in what happens to other private degree-granting institutions in the province. I wonder if I'd be able to speak.

**The Chair:** Agreed? Agreed.

**Dr Cooper:** Thank you very much. First of all, as an institution that has had dealings with the Institute for Christian Studies, we simply would like to very much support the academic quality of the institution and just for the record mention that. Secondly, we'd like to reflect that it is our understanding that the Robarts policy that has been mentioned a number of times in the committee hearings this morning is no longer being observed, because it's our understanding that Nipissing University College has been chartered as a new university, so there is now a new freestanding degree-granting institution in Ontario and we understand the Robarts policy no longer applies.

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We also would speak in support of this type of treatment of another private degree-granting institution in Ontario, because we too have had a request before the ministry for a change in our degree-granting status for seven years, since 1985. So again, I would urge the committee to deal fairly with this sister private institution in the province.

**The Chair:** Are there any questions anyone would like to pose to Mr Cooper? No. We have already had a thorough discussion. Are we ready for a vote?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, gentlemen.

**Mr Marchese:** I move that the committee recommend that the fees and actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr64, An Act respecting the Institute for Christian Studies.

**The Chair:** Mr Marchese moves a waiver of fees. Agreed? Agreed.

Thank you, Mr Marchese and thank you, gentlemen. Mr Marchese, could you remain where you are and introduce Bill Pr78.

#### CITY OF TORONTO ACT, 1992

Consideration of Bill Pr78, An Act respecting the City of Toronto.

**Mr Marchese:** Just as a brief background, in 1990 the city obtained special legislation, being the City of Toronto Act, 1990, chapter 12 of the Statutes of Ontario, 1990. That legislation is automatically repealed on May 31, 1993.

The purpose of the current legislation requested is to repeal the sunset provision in the City of Toronto Act, 1990, to allow



the current legislation to remain in place until the Municipality of Metropolitan Toronto Act is amended to include provisions respecting vending removal zones on a Metro-wide basis. Therefore, it's important that the legislation be granted so that the city can continue to remove illegal vending equipment placed within the street allowance while a Metro-wide solution is being pursued. That is the essence of the bill, and if people have questions, the city solicitor is here.

**Mr Perlin:** I don't know if any of you were members at the time we were here for Bill Pr12. We had videos showing the difficulties we were having in the city controlling vendors on the sidewalks and public rights of way. I can report that since the passage of this bill by the Legislature, the passage of the necessary bylaws and the posting of the necessary signs, we have had good success in better controlling the vendors on the sidewalks.

As you know, this is not a bill to in any way prohibit vending. We permit vending and do it by a permit system. What we were having was difficulty with those who didn't respect getting the permits. We had to have some method of removing them and it has worked.

As Member Marchese has said, we were hoping that the Metro act would have been amended by this time. Unfortunately, due to the timing of legislation etc, it wasn't able to be done by this time. These provisions basically from Bill Pr12 would have just gone into the Metro act and been available to Metro and to each of the area municipalities.

Now, with no objection from Metro, we are coming forward asking for the removal of the sunset provision, to keep the provision in effect until such time as the Metro act is passed and the legislation placed in that bill.

**Mr Hansen:** I'm just wondering what the cost is of the permit the city is charging.

The other thing is, walking to my apartment down Yonge Street, we have very many vendors in doorways selling jewellery. Do you mean each one of these people is licensed by the city of Toronto?

**Mr Perlin:** This is on Yonge Street?

**Mr Hansen:** Yes.

**Mr Perlin:** That's a Metro road, and Metro looks after permitting, if at all, on that. Once they give the permit, we assist in the enforcement, but they handle whatever locations there are on a Metro road.

**Mr Hansen:** So you've got to make sure you get on a Metro road instead of on a city street. Is that correct?

**Mr Perlin:** Well, there is a permitting system at Metro but I'm not as familiar with how it works.

**Mr Hansen:** It would be nice for the committee to know, because most likely other municipalities would come forward. I think the city of St Catharines already has a bill of this nature also. So it would be for the committee's experience, and as we sit here and listen to other municipalities on how to control this, especially outside vendors coming in to town who come in and leave and where normal retail outlets get harmed because of these vendors who are operating at night selling jeans and jewellery etc on the street.

**Mr Perlin:** There are set rules and terms of the permitting system in terms of the way the city does it on city streets

and not being able to be directly in front of competing retail type operations. If you were selling jeans, you wouldn't, under the city system, be able to do it in front of and adjacent to a store that was also selling those. So we are careful, in terms of the way the city allocates the permitting spots, to deal with that. I believe Metro used similar criteria but it has used a lottery in order to decide who gets what spots.

**Mr Hansen:** Well, you're talking about competition in front of you. I've seen it at maybe 8, 9, 10, 11 o'clock at night in front of the Eaton Centre, racks of jeans that are standing up there. So I just want some comment, because you've got this bill going through and yet it doesn't seem to be enforceable. That's why I'm asking the questions, because if you say, "That's a Metro road," then everybody knows to get on a Metro road and not to get on a city street. So if you're on Yonge Street, you're all right, in front of the Eaton Centre.

**Mr Perlin:** Actually, once Metro designates a particular area as a removal zone, we do have the authority by virtue of the delegation from Metro to the city to go in and remove. Again, as we promised the committee in the Legislature when we were last here, it's being used with great discretion because it is a very serious approach to enforcement to simply take people and move them. So we use methods of ticketing and we use methods of warning before finally, Mr Hansen, moving to the approach of actually moving somebody out and taking the equipment away. We try to use it with great discretion. At times it may appear as if it's not enforceable, but when there has been a problem, frankly, we have found it quite useful in dealing with people who just continue to disregard the rules in terms of being warned and still no action; warned, no action. Finally we just have to then take it away.

**Mr Hansen:** Okay. Thank you, Mr Chair.

**The Chair:** Thank you, Mr Hansen. Mr Sola and then Mr Wilson.

**Mr Sola:** If I understand correctly, the purpose of this bill is just to allow Metro, in essence, to catch up to Toronto, because you were expecting that by 1993 Metro would have a bill in place which would no longer necessitate having something similar to this for the city of Toronto. Is that correct?

**Mr Perlin:** That's correct. The provisions would have just gone into the Metro act.

**The Chair:** Thank you, Mr Perlin. Mr Wilson.

**Mr Jim Wilson:** I just wanted to doublecheck that with legislative counsel, the reason for the sunset clause in the first place in the 1990 legislation.

**Ms Laura Hopkins:** I didn't prepare the legislation in 1990. I understand that the sunset clause was a request by Metro Toronto, but perhaps staff from the Ministry of Municipal Affairs can fill you in on the background.

**Mr Mills:** I'd just like to turn to Linda Gray for comment.

**Ms Linda Gray:** That amendment was inserted at committee at Metro's request at the hearing of the previous bill, mainly to give time for the legislation to be put in place at the Metro level and so that Metro could delegate down. Unfortunately, legislative time has not permitted that to happen and Metro has written and said it has no objection to the sunset clause being removed at this time until such time as general legislation can be passed.



**The Chair:** Further questions? Are there other questions from the committee members? Are there interested parties here present? Do we know of any objections? Mr Parliamentary Assistant?

**Mr Mills:** No, there are no objections, and it's been explained, the little glitch there, by Miss Gray.

**The Chair:** Thank you, Mr Parliamentary Assistant. Are we ready then for a vote?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you. Thank you, Mr Perlin, Mr Marchese.

1030

#### TORONTO ATMOSPHERIC FUND ACT, 1992

Consideration of Bill Pr45, An Act to incorporate the Toronto Atmospheric Fund and the Toronto Atmospheric Fund Foundation.

**The Chair:** I believe Mr O'Donohue need no longer be inconvenienced and we should be ready for Bill Pr45.

**Mr Marchese:** I hope so.

**The Chair:** The amendments, I believe, are ready. The amendments are being Xeroxed, so hopefully they will be circulated and here by the time they are necessary. Mr Marchese.

**Mr Marchese:** Very good. Thank you, again, Mr Chair. I'm happy to present Bill Pr45. As I said earlier, I wanted to praise the initiative the city has taken with respect to the Toronto Atmospheric Fund and the Toronto Atmospheric Fund Foundation. I'm very happy, again, to support the objectives of the fund and pleased we've been able to iron out some of the difficulties we might have had. Having said that, I would like to again present Councillor Tony O'Donohue and Peter Tabuns and would ask Tony O'Donohue to make some remarks because he's been one of the authors of this.

**Mr Tony O'Donohue:** First of all, I want to thank the committee for allowing us to make a presentation here today, and hopefully to finalize what has been a long journey for us.

I'd like to take you back to June 1988 when we had in Toronto the Changing Atmosphere conference, which was convened by the federal government and attended by about 500 or 600 internationally known scientists and planners who addressed the whole question of global warming. When the conference was over, in the final set of recommendations, which was chaired by Stephen Lewis, they came out with 39 recommendations.

We thought we should not let this moment pass, because at that particular time there was a lot of interest in global warming and the economy was very buoyant. I put before city council a series of recommendations on how we could capture some of the talent we had at that conference, and we set up what we called the special advisory committee on the environment, which included citizens from the Toronto area who had expertise in the various disciplines. We asked them to give us some ideas and some thoughts on how we could tap into the Changing Atmosphere conference and the recommendations of that conference. They issued us a blueprint called *The Changing Atmosphere: A Call to Action*. It was cochaired by Danny Harvey and Phil Jessup, and it was really

a blueprint that was before its time in that it laid out certain things that a city could do. I remember at that time writing to the executive, as did a lot of other members of city council, suggesting ways and means of how we could better the proposals in *The Changing Atmosphere: A Call to Action*.

One of the things I pulled out was that we had a lot of money. At that time I guess it was money we wanted to spend wisely. We had \$115 million in the bank, and it had come into our possession through the sale of two farms. One of the farms was the jail farm, which was in Richmond Hill, and it had accumulated to just under \$100 million. We sold it for \$78 million in 1987, but with the interest going on every year it had gone up near to \$100 million by the time we took this into account. Incidentally, that particular farm, right now all the monies are finally going to come to the city on the 15th of this month. December 15 we'll be getting our last \$55 million. We didn't sell at the peak but we were damned near it and we got quite a substantial amount of money for it.

So the amount of money we had in the fund at that time was \$115 million, and I suggested that we should put 20% of that into a Toronto atmospheric fund, which would really deal at the leading edge of technology, things that a city should be doing, and play our part as a major city in the world to combat global warming and energy conservation and a whole lot of other environmental things, and 20% of \$115 million is \$23 million, and that's what you have before you here today, a cap of \$23 million with respect to the Toronto Atmospheric Fund.

The bill establishes two corporations, the Toronto Atmospheric Fund and the Toronto Atmospheric Fund Foundation. Part I of the bill contains definitions. Part II sets out the structure, objects and powers of the Toronto Atmospheric Fund and part III sets them out for the foundation.

The city of Toronto initially proposed draft legislation which would have enabled it to incorporate a corporation under the Business Corporations Act. The form of the legislation was similar to the TEDCO legislation, and I think it was in April I contacted Mr Marchese and told him what we wanted to do and ask him to try to help us through the Legislature.

We wanted to announce this at the Earth Summit, because the city of Toronto played a very large role at the Earth Summit in Brazil last summer. The municipal section was held in the city of Curitiba. Unfortunately, we were not able to process it fast enough. But we do have a meeting coming up in January in New York. It's an international mayors meeting, mayors of world cities, with the United Nations dealing with global warming.

This will give us an enormous boost when we can announce that we have finally had the legislation we had asked for, and we will be taking a lead role of cities in the world. When we announce this legislation and that we have the approval from the provincial government, I think other cities throughout the world might wish to follow us and become involved in the reduction of greenhouse gases. At least for us going to New York in January, it will be a great help.

I'd just like to deal with a couple of other things that we have written down here. As I have stated, the Toronto Atmospheric Fund Foundation is a charitable foundation. As such, it will be able to give receipts for income tax purposes to



persons who make donations to it. Donations received by the foundation must be used in furtherance of the charitable objectives. These objectives are similar in many respects to the objects of the fund. However, participation with business for profit is not charitable, and the foundation could not provide funds to the fund to be used for this purpose.

The board of directors of the fund will consist of 10 people: four persons who are members of the public, three persons who are members of city council, and then there will be the commissioner of finance, the medical officer of health and the commissioner of public works and the environment.

I have with me here today my colleague Councillor Tabuns, who has been playing a leading role in environmental matters in the city of Toronto, and Dennis Perlin, who is the city solicitor. Perhaps they would like to address the bill before you.

**Mr Tabuns:** I have no comments to make in particular, Mr Chair. If there are any questions about this fund, I would be happy to try and address them.

**Mr Perlin:** Mr Chairman and members of the committee, this is actually the third in a series of bills. When I was here last spring and we had Bill Pr86 here which dealt with the CFCs and the scheme for reducing and removing CFC production in the city in terms of appliances etc and playing our role in support of provincial policy in that area, we indicated that this bill, the Toronto Atmospheric Fund, would be a second pillar in that attempt to deal with environmental issues in terms of global warming and carbon zinc increase and so forth. We had urban forestry programs etc, and then as well the earlier bill that you dealt with this morning, the direct purchase of natural gas, the city using any savings from those who would participate towards energy conservation.

There are many other measures city council can do within its own mandate that it is doing, within powers that you've already granted to the city. This adds a further dimension, with a body that is at arm's length to the city—it's not a local board—and it is able, as Councillor O'Donohue said, to deal with various programs in education and research, as well as some joint ventures on the leading edge with institutions and private industry. That is what is hoped for from this program.

**The Chair:** Thank you, Mr Perlin. Any questions of the applicants? Mr Sola.

1040

**Mr Sola:** I'd like to commend Mr O'Donohue and the city of Toronto for taking this initiative, especially at this time, in such an economy, where usually environmental concerns are last on the list.

But I do have one concern and it's the similarity of this private member's bill to government legislation. There apparently are more amendments than there were articles in the original bill, so I'm wondering what the reason for this is. Were they objections by the ministry or was this a quick fix which was found to be wanting?

**Mr Perlin:** We were attempting, as Councillor O'Donohue said, to try and get the bill in before the Earth Summit, and with the cooperation of provincial staff we were able to get an initial draft done and that was initially put in for first reading last spring. But it was really, with the cooperation of provincial staff, to be able to get it through.

We all knew at that point that there would have to be further work done, because we were moving from simply the type of legislation which was the City of Toronto Act, 1985, for example, that allowed us to incorporate a company under the Business Corporations Act, which we later did, called the Toronto Economic Development Corp, for economic development purposes, instead of doing it that way, to one that actually created statutory corporations, which is what you see in front of you. Therefore, we had to rush the initial drafting in order to get the bill in for first reading prior to the Earth Summit.

Since that time, various ministries have now had a chance to look at it, and what is in front of you is the work of various ministries in terms of changes that are needed to make it work with other legislation, other policies that you have at the provincial level, other legislation that you have at the provincial level that couldn't be picked up initially in attempting to help us to have that in for first reading before the Earth Summit. It was really along those lines.

A lot of this might have been captured, Mr Sola, as normally happens before you would see the bill. Although we would normally distribute a draft, it would go around to the various ministries, we'd get the changes in advance and try and work those out so that you as members would see a bill that had most of those types of technical difficulties worked out, but it was to try and help us out.

**The Chair:** Thank you, Mr Sola. Mr Ruprecht.

**Mr Tony Ruprecht (Parkdale):** Thank you, Mr Chairman. I am delighted that you're here this morning. What impresses me most is that you've got Mr Marchese here, and of course Mr O'Donohue and Mr Tabuns and the city solicitor. I'm really delighted to see that there is what I would term real agreement. This is non-partisan.

**Mr Marchese:** It can happen from time to time.

**Mr Ruprecht:** I want to commend not only you—but the question I have—

**Mr Marchese:** I almost introduced them as my friends.

**Mr Ruprecht:** For the record, I want this noted. This is a first on this committee, I think. I've been on this committee now for at least nine years, but I think this is also a first for the city of Toronto. When you look across Canada and the design of the fund and of the foundation, it is really ground-breaking work, and I know that all members of this committee want to congratulate you on that issue obviously.

While Mr Perlin indicated some of the legislative problems, my question to you would be, why would it take this long? I've heard about this on the radio and I've heard Mr O'Donohue speak about this for quite some time and I'm just wondering—with a caveat here that things were apparently resolved with the ministry this morning—but I'm just wondering in terms of your ground-breaking work. This would be a model for the rest of Canada. Cities throughout this country would emulate this, I'm pretty sure, because it's not only timely but it's important.

My question is this: Why would it take you this long to get to this stage? What are the hangups? The reason I'm asking you this question is because I really want it noted, simply because there may be others who want to get on this immediately because of the importance of this issue of global warming.



**Mr O'Donohue:** Perhaps I could answer that. One of the reasons is that the province couldn't really understand why we weren't asking for money. We were putting money in. I thought I'd throw that in to let you know that we are not coming here looking for money; we are putting money in and we feel very strongly that the route you're taking is the right direction, and we want to be the catalyst to get other cities.

The reason we had such difficulty was because I think a lot of people in the various ministries didn't really believe that we were for real in what we wanted to do. So there were a lot of things being done for the first time and there were a lot of questions asked and there were a lot of answers that were forthcoming and took some time. That's one of the reasons.

This is the first time I think anybody or any city anywhere has attempted anything like this; therefore it took a bit longer. As I said, I don't think they thought it was for real, our putting \$23 million into something we strongly believe in. We want to be a leader as a city goes, and we think we can be. We think we can be the catalyst that will get other cities to do the same thing.

When we go to New York in January, we think we will have other cities wanting to know how we did it and why we're doing it. Hopefully, we will get European cities and other First World cities to do the same thing. I think that will start the ball rolling and I think it will be a tremendous step forward.

**Mr Ruprecht:** One final thing, Mr Chairman, if I might: Who can contribute to your fund? If you provide this expertise to other centres, would you be able to get moneys actually from which source? I know you can get private sources, but can you also get government sources such as other cities?

**Mr O'Donohue:** I doubt if another city would contribute to our fund, but we would take money from anybody. You can contribute, members of the committee can contribute, anybody.

**Mr Sola:** Fork out.

**Mr Perlin:** The staff person told me to bring along the receipt book, so I'll—through the foundation, the private donations can be made. That's why the foundation corporation—as you can see in front of you, there are two corporations: the fund itself which will actually carry out the program, and the foundation, which would be the method by which people can make contributions and receive tax credit receipts.

In terms of other municipalities, they would be welcome, because it is at arm's length to the city and could make a contribution. I'm not sure others would, to an atmospheric fund created by the city. But the fund can accept grants from anywhere. Other foundations themselves that are looking to contribute but would rather pool money in a way that could be used in a more significant way towards dealing with global warming—probably would be more in Metro Toronto or in the city of Toronto—can contribute to the atmospheric fund. What we'd hope is that they would find the foundation as a method by which they could, and therefore get receipts etc.

Anyone can. It has been purposely created at arm's length to try to encourage people who might be worried that it was going to the city. That's why, you see, it's not a local board. It is at arm's length to the city in order to try to encourage people who might be concerned about the funds being used

for some other city purpose, not being used for the atmospheric purposes for which this fund is designed. So it was designed that way.

**The Chair:** Thank you, Mr Ruprecht. Mr Hansen and then Mr Wilson.

**Mr Hansen:** I believe it was last year that the CFCs you brought forward in this committee—we passed it, didn't we?

**Mr Perlin:** Absolutely.

**Mr Hansen:** Against the ministry's advice to us, I believe, because I think I got my fingers rapped back then too. I think it was a good pilot project. I have no problem supporting this particular bill, Mr Chair. I have a few amendments here, about 10 or 15, and I will seek your guidance on how you want to proceed with that. I will be in agreement with this bill, Mr Chair.

**The Chair:** Thank you, Mr Hansen. We should proceed clause by clause.

**Mr Jim Wilson:** I think, Mr Chairman, that the question concerning the ultimate liability of any debts incurred by the fund will be answered when we deal with one of the amendments, so perhaps we should proceed.

**The Chair:** Thank you, Mr Wilson.

**Mr Marchese:** Just for the record, and I think it is important to say, the ministry has been supportive of this. As usual, it takes some time to work out some problems or difficulties the ministry people might have with certain bills. But it's important to say that it's here, the changes have been made, it has the support of the minister and the ministry, and I'm glad we're moving on it.

**Mr Jim Wilson:** Perhaps I could give the applicants a chance to just clear up one question that comes to mind when looking at the establishment of the fund and the foundation. Given that there's simply one taxpayer, and given that both federal and provincial ministries of the environment are supposed to be looking after our environment and doing some of the things that are the objectives of the fund—although I certainly agree that perhaps you can do them better at the local level in terms of preserving carbon areas and things in that regard—I just want to ensure you're not duplicating efforts that should be carried on by the province. Is there any comment on that?

**Mr O'Donohue:** Yes, I'd like to comment on that. On a per capita basis, I think, cities generally are the first units of habitation, if you want to use the phrase, that get the full brunt of any changes in atmospheric conditions, particularly with respect to environmental pollution. I think that if you lived in a rural area you probably wouldn't feel it, but you'll certainly feel it when you're living in the city.

1050

**Mr Jim Wilson:** Oh, it all comes our way.

**Mr O'Donohue:** That also goes for, I think, when you're looking at the consumption of carbon, the amount of fuels we burn and how it's spread over an area. We feel the city is the first target and we're on the firing line. All problems that we have with respect to modern living, I think, are felt first in cities. So I guess we're the guinea pigs and we try to make sure we've got the best legislation on how to combat the



problems we have. This is the city of Toronto. For example, in the CFC bill, we were the first city anywhere to propose a bill and try to make it work, because we knew that somebody had to do it. We're on the firing line. We are right in the trenches, and here's where we want to be, because we feel our environmental problems in the city are really problems that should be addressed.

**Mr Jim Wilson:** Thank you for that explanation, and may I add my congratulations to those of other members. I appreciate Mr O'Donohue elaborating on the purposes of the act. I want to say that certainly I agree with the thrust and I wish you all the best.

Thank you very much, Mr Chairman. Perhaps we could do the clause-by-clause.

**The Chair:** Mr Hansen.

**Mr Hansen:** I would like to, as I say, support this bill. You know, when I'm on the fourth floor here at Queen's Park looking out, I get homesick every so often. I can see Lincoln down here only on a clear day. So with this bill, I imagine every day will be a clear day.

**Mr Ruprecht:** Except you're not on the fourth floor now; you're on the first floor.

**Mr Hansen:** Well, I'm moving up.

**The Chair:** Are there any objectors or interested parties here present?

**Mr Jim Wilson:** The only fog is between you and the window.

**The Chair:** Mr Parliamentary Assistant.

**Mr Mills:** I'd just like to make a few comments. Of course, this is complex legislation. It involved a number of ministries, including the public trustee and I'd like to commend our ministry people, who worked very hard on this to bring it to fruition. As late as 8:30 this morning we were dealing with some of the amendments that are before the committee now, which makes for the delay, as it happened. But I'd just like to go on record that the ministry and the minister support this initiative and we're very pleased to be here today to move this legislation.

**The Chair:** Thank you, Mr Parliamentary Assistant. Are there any questions to the parliamentary assistant?

**Mr Sola:** Let's vote.

**The Chair:** Are we then ready for a vote?

**The Chair:** Agreed. Shall sections 1 and 2 carry?

**Interjection:** Carried.

**The Chair:** Thank you. Are there any amendments to section 3?

**Mr Hansen:** Yes, Mr Chair. I have an amendment here.

I move that subsection 3(3) of the bill be struck out and the following substituted:

"Same

"(3) The term of a board member appointed by the council of the city shall not extend beyond the term of the council that made the appointment."

I would like to refer for an explanation from legal counsel here.

**Mr Tom Melville:** It's Tom Melville speaking, from the Ministry of Municipal Affairs. I'm not a new member, as may have been commented on.

The purpose of this section is to provide that the term of the board members of the fund coincides with the term of the council that appoints them.

**The Chair:** Thank you, Mr Melville. Mr Hansen.

**Mr Hansen:** Mr Chair, I have another amendment—  
**Interjection.**

**Mr Hansen:** Are we going to do the whole section or are we going to do amendment by amendment?

**The Chair:** Amendment by amendment.

**Mr Hansen:** Okay. I'm just following your direction, Mr Chair.

**The Chair:** Discussion on this amendment?

**Mr Hansen:** I have another amendment here. Subsection 3—

**The Chair:** Mr Hansen, could we deal with one amendment at a time, please?

**Mr Hansen:** Okay.

**The Chair:** Are there any questions on Mr Hansen's amendment?

**Mrs Ellen MacKinnon (Lambton):** Yes. I have a problem when I hear of a member being appointed to any board and then that's going to end when the council ends. What do you have built in there for continuity? If everybody changes as it happens, the council changes. I have a bit of a problem.

**Mr Perlin:** Subsection (4) provides, "A board member continues to hold office upon the expiry of his or her term of office until a successor is appointed." What will happen is that the person concerned will continue to hold office until the successor is appointed. What it provides is that somebody who might have been there for a particular period of time, if this amendment that's being proposed—might have been there for a number of years. If it went beyond the term of the council that made the appointment of that person—by virtue of this bill, one cannot do that. The term of the person will expire with the term of the council that appointed that member. However, the person will continue to remain a board member until a new appointment to replace that person is made by the new city council.

**Mr Marchese:** But in addition, the same person could be reappointed by the new council, obviously.

**Mr Perlin:** That's true.

**Mrs MacKinnon:** And by the same token, you could have a whole brand-new list of appointments. Therefore, you'd have no continuity, so you're not building in a guarantee, any continuity to the board.

**Mr Perlin:** This is a matter more in the area of provincial policy and provincial direction as opposed—we have for a long time been seeking change in that area of municipalities. But if I could, I'd prefer to defer to Mr Mills or members of provincial staff.

**Mr Mills:** I have some of our legal branch. Would you introduce yourself?

**Mr Richard Dougherty:** Richard Dougherty, Ministry of Municipal Affairs. The view of Municipal Affairs is that new council should not be subject to the appointments of a previous council when taking office. Therefore, this is something we accept.

**The Chair:** Thanks for commenting.

**Mr Marchese:** To address the point Mrs MacKinnon was raising, the new council can reappoint some or many of the members if it chooses. So I presume there will be continuity because not everybody would be dismissed, obviously.

**The Chair:** Further discussion on subsection 3(3)?

**Mr Jim Wilson:** I just want to put on the record that I appreciate the amendment. If the foundation were to get stuffed with a bunch of political hacks from one particular council, this enables you to clear house and I think that's why the province has this as a general rule of thumb, to be frank about it.

**The Chair:** Any further discussion of subsection 3(3)? Are we in agreement with the amendment? Agreed.

Any further amendments to section 3?

**Mr Hansen:** Yes, I have another amendment here, subsection 3(11).

I move that section 3 of the bill be amended by adding the following subsection:

"Exception

"(11) A board member may receive reasonable remuneration and expenses for his or her services to the fund in a capacity other than that of a board member, unless the bylaws otherwise provide."

**The Chair:** Are there any questions of Mr Hansen?

**Mr Jim Wilson:** I would like an explanation of this because upon first reading, I would have thought it said, "A board member may not receive reasonable—"

**Mr Melville:** This follows a recommendation, I understand, of the public trustee. The provision is to provide or allow for the remuneration of the fund board members, otherwise then as board members. That would be to allow, for example, for professional fees to be paid to these persons when they're acting in some other capacity.

**Mr Jim Wilson:** It envisions, in my mind, or sets up a conflict. You can get paid in two capacities working for the board: being on the board and working for the board?

**Mr Melville:** I'm not sure I'm in a position to respond to that, since it was a recommendation of the public trustee.

1100

**Mr Jim Wilson:** Perhaps the city would like to respond to that.

**Mr Perlin:** It's difficult at the moment to see where there might be—there's also an amendment you'll be dealing with that makes it clear that despite the fact this is not a local board, the Municipal Conflict of Interest Act will apply. Therefore, there could be an occasion where, Mr Wilson, because you appoint an expert member to this board in terms of some sort of technology, the best person to give advice on that as a consultant, there might indeed be a board member who would then disclose and not participate in or influence the voting by virtue of the Municipal Conflict of Interest Act.

Because that act is made applicable as well, that should deal with conflicts in the same way they're dealt with at the municipal level or local board level now.

**Mr Jim Wilson:** Yes, but given that these people are appointed by council, and three of them will be council members themselves, excluding the three council members, you've got appointees that aren't accountable to the public. When you look at the Municipal Conflict of Interest Act, you're primarily dealing with politicians who are accountable, at some point, to the public. It just seems to me, and I was wondering if the government might want to respond—is this precedent-setting or is this the way we do business now?

**Mr Perlin:** It comes right out of the Corporations Act.

**Mr Jim Wilson:** That you could pay a member of the board of a corporation?

**Mr Perlin:** I'm looking at subsection 126(2) of the Corporations Act right now:

"Nothing...prohibits a director from receiving reasonable remuneration and expenses for his"—or her—"services to the corporation as a director or prohibits a director or member from receiving a reasonable remuneration and expenses for his services to the corporation in any other capacity, unless the letters patent...or bylaws otherwise provide."

There isn't going to be remuneration for the persons being on the board but they could—that part I just read to you as the latter part is there in the Corporations Act right now. Remember, this is in terms of a statutory corporation, so we are following what is there now in terms of the situation.

**Mr Jim Wilson:** Okay; I accept that explanation.

**The Chair:** Nothing further, Mr Wilson? Any further questions?

**Mr Jim Wilson:** No.

**The Chair:** Are we then ready for a vote on Mr Hansen's amendment? Shall Mr Hansen's amendment to subsection 3(11) carry? Agreed.

Shall section 3, as amended, carry? Carried.

Are there any amendments to section 4?

**Mr Hansen:** Yes, I have another motion. We have 17 more, just to inform the chair and the committee members of how many amendments there are to this particular bill, it being 11 o'clock, to get this bill through, and maybe we can ask some questions after, in the hallway.

I move that paragraph 6 of subsection 4(1) of the bill be struck out.

**The Chair:** Are we ready for a vote on Mr Hansen's amendment to section 4?

Shall Mr Hansen's amendment carry? Carried.

Shall section 4, as amended, carry? Carried.

Are there any amendments to section 5?

**Mr Hansen:** I move that section 5 of the bill be amended by adding the following subsections:

"Open meetings

"(2) Meetings of the board of directors, others than meetings of committees of the board of directors, are open to the public and no person shall be excluded from the meeting except for improper conduct.

"Power to expel, etc



"(3) The presiding officer may expel or exclude from a meeting of the board of directors a person who has engaged in improper conduct at the meeting.

"Court review

"(4) Section 193 of the Municipal Act applies, with necessary modifications, to a decision of the board of directors as if it were a decision of a council."

I would like to have legal counsel give an explanation of this amendment.

**Mr Melville:** These amendments would provide for the application to the operation of the board of directors of the fund of open-meetings provisions and disposition-of-property provisions similar to those in the Municipal Act.

**The Chair:** Are there questions? Are we ready for a vote? Agreed.

Shall Mr Hansen's amendment to subsection (5) carry? Carried.

Shall section 5, as amended, carry? Carried.

Are we ready for a vote on sections 6 through 8? Agreed.

Shall sections 6 through 8 carry? Carried.

Are there any amendments to section 9?

**Mr Hansen:** Yes, Mr Chairman. I move that section 9 of the bill be struck out and the following substituted:

"Money from city

"9(1) Despite section 111 of the Municipal Act, the city is authorized to grant, loan or by any other method provide the fund with a maximum of twenty-three million dollars.

"Interest on loans

"(2) If the city lends money to the fund, the city may charge interest at a rate agreed upon by the city and the fund."

An explanation from legal counsel? This is one we're waiting for.

**Mr Melville:** There are three more—

**The Chair:** I'm sorry, could you finish the amendment, Mr Hansen?

**Mr Hansen:** Oh, I'm sorry. Okay.

"Restrictions on use

"(3) The fund shall not use any money received from the city for the purpose of directly or indirectly inducing any industrial, commercial, manufacturing or business enterprise to locate in the city of Toronto.

"Effect on city's debt limits

"(4) For the purpose of calculating its debt and financial obligation limits under subsection 147(5) of the Municipal Act, the city is deemed to have incurred as a long-term debt any financial commitment, liability or contractual obligation of the fund in respect of which the fund is required to make payments after the expiry of the term for which the council of the city was elected.

"Approval

"(5) The fund shall not undertake a financial commitment, liability or obligation described in subsection (4) without the prior authorization of the council of the city."

**Mr Melville:** I'll just do the highlights. These amendments would provide, first, for the restriction of the amount of money that can be spent for the bill's purposes to \$23 million. Second, it provides that money cannot be used by the fund to induce business or industry to locate in Toronto. Finally, it provides that long-term debt of the fund is deemed to be

long-term debt of the city for the purposes of the city's prescribed borrowing limit.

**The Chair:** Any questions?

**Mr Jim Wilson:** I've just got a quick question. Is the \$23 million a lifetime maximum?

**Mr Melville:** Yes, it would be.

**Mr Jim Wilson:** Over the life of the fund. This is not per annum.

**Mr Perlin:** No, that's coming from the—

**Mr Jim Wilson:** Maybe interest rates will go up and you'll make more money on the farm you sold.

**Mr Perlin:** That is the one-time capital contribution coming from the jail farm proceeds. If the city wishes to contribute any more from city funds, then it'll have to come back here to the Legislature for permission to do so.

**The Chair:** Further questions? Are we ready for a vote on Mr Hansen's amendment? Agreed.

Shall Mr Hansen's amendment to section 9 carry? Carried.

Shall section 9, as amended, carry? Carried.

Are there any amendments to section 10?

**Mr Hansen:** Yes, Mr Chair. I move that section 10 of the bill be amended by adding the following subsections:

"Application of RSO 1990, c M.50

"(2) The Municipal Conflict of Interest Act applies with respect to the fund as if it were a local board.

"Application of RSO 1990, c M.56

"(3) The fund is deemed to have been designated as an institution to which the Municipal Freedom of Information and Protection of Privacy Act applies."

I'll ask legal counsel for an explanation before we go on for a vote.

**Mr Melville:** These provisions provide for the application of the Municipal Conflict of Interest Act and the Municipal Freedom of Information and Protection of Privacy Act to the operations of the board of the fund.

**The Chair:** Questions? Are we ready for a vote on section 10's amendment? Shall Mr Hansen's amendment carry? Carried.

Shall section 10, as amended, carry? Carried.

Are there any amendments to section 11?

**Mr Hansen:** I move that section 11 of the bill be amended by adding the following subsection:

"Same

"(2) With respect to a donation, the fund shall not exercise its powers in contravention of any intention expressed in the document governing the donation unless directed to do so by the Ontario Court (General Division)."

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**The Chair:** Are there questions? Are we ready for a vote then? Shall the amendment carry? Carried.

Shall section 11 carry, as amended? Carried.

Are there any questions on sections 12 and 13? Are we ready for a vote on sections 12 and 13? Shall sections 12 and 13 carry? Carried.

Are there any amendments to section 14?

**Mr Hansen:** I move that section 14 of the bill be amended by adding the following subsection after subsection (2):

"Same

"(2.1) The term of a board member shall not extend beyond the term of office of those members of the board of directors of the fund who are appointed by the council of the city."

**The Chair:** Any discussion on Mr Hansen's amendment to subsection 14?

**Mr Sola:** It seems to be a carbon copy of the first amendment that Mr Hansen read.

**Mr Melville:** Just to explain, the bill would set up two corporations, so many of these provisions will be repeated.

**The Chair:** Are we then ready for a vote on Mr Hansen's amendment to section 14? Agreed.

Shall Mr Hansen's amendment carry? Agreed.

Shall section 14, as amended, carry? I'm sorry, there is another amendment, I see.

**Mr Hansen:** I move that section 14 of the bill be amended by adding the following subsections:

"Profit

"(7) A board member shall not directly or indirectly receive any profit from his or her position on the board.

"Exception

"(8) A board member may receive reasonable remuneration and expenses for his or her services to the foundation in a capacity other than that of a board member, unless the bylaws otherwise provide."

**The Chair:** Any discussion? Are we ready for a vote on Mr Hansen's amendment? Shall Mr Hansen's amendment to subsections 14(7) and (8) carry? Carried.

Shall section 14, as amended, carry? Carried.

Are there any amendments to section 15?

**Mr Hansen:** I move that clause 15(1)(d) of the bill be struck out.

**The Chair:** Any questions? Are we ready for a vote on Mr Hansen's amendment? Shall Mr Hansen's amendment carry? Carried.

Are there any further amendments to section 15?

**Mr Hansen:** I move that subsection 15(2) of the bill be struck out and the following substituted:

"Powers

"(2) The foundation has the following powers:

"1. To solicit, receive and use donations of property whether by gift, testamentary disposition, deed or trust.

"2. Unless otherwise provided by a donor, to convert any property held by or on behalf of the foundation into any other form and for that purpose to sell or otherwise dispose of it.

"3. To apply the net income from all funds held directly or indirectly by it toward such charitable purposes of the foundation as the board considers advisable.

"4. To invest and reinvest funds in such securities as are authorized under the Trustee Act for trustees. The earnings derived from the investments of the money form part of the funds of the foundation.

"5. To incur debts, liabilities and charges for carrying out its objects.

"6. To determine in respect of all funds of the foundation what shall be treated as income and what shall be treated as capital and to charge or apportion any losses or expenses

to capital or income as the board of directors considers advisable.

"7. To carry on, in accordance with the Charitable Gifts Act, a related business or a business donated to the foundation in which the net profit from the business is used solely for the purposes of the foundation.

"8. To accumulate net income with the intention of distributing the accumulation for the purposes of the foundation.

"9. To retain, in accordance with the Charitable Gifts Act and the Charities Accounting Act, any property in the form in which it is received by the foundation for such length of time as the board considers advisable.

"10. To demand and compel payment of all sums of money and claims to any real or personal property in which the foundation may have an interest and to compromise any such claims.

"11. To sue and be sued in its corporate name.

"12. To draw, make, accept, endorse, execute and issue cheques and other negotiable or transferable instruments.

"No gain

"(2.1) The foundation shall be carried on without the purpose of gain for its members and any profits or other accretions to the property of the foundation shall be used in promoting its objects."

How about "dispense"?

**The Chair:** Okay, Mr Hansen moved—

**Mr Sola:** Dispense.

**The Chair:** Thank you.

**Mr Mills:** Thank goodness.

**The Chair:** Are there any comments or questions on Mr Hansen's amendment to subsection 15(2)?

**Mr Jim Wilson:** I just have a question on paragraph 3. Perhaps I can be advised by the parliamentary assistant whether this is just a standard subsection, but it allows the fund to contribute to charitable purposes, so I would assume that's contributing to causes outside the fund. Do those charities have to be in line with the objectives of the fund? What are the safeguards there?

**Mr Melville:** I'll answer indirectly here. The public trustee recommended that these provisions be inserted in order to make the powers of the foundation consistent with the powers of a charity corporation, if I'm correct, Dennis. In essence, I believe the moneys would have to be dispensed in accordance with the objects of the foundation.

**Mr Jim Wilson:** Which is set out in the bylaws of the foundation.

**Mr Melville:** Which is set up in this act.

**The Chair:** Further to subsection (1).

**Mr Jim Wilson:** No, the objectives of the foundation. For instance, if you take some union organizations that decide to support certain political parties which are charities for the purposes of these acts, they become funnels for money with no safeguards for the membership. That's why my concern is the foundation, not that they would ever do that.

**Mr Perlin:** But if you look back at subsection 15(1) of the bill, it says to apply for the charitable purposes of the foundation, and the foundation is set out in terms of promoting



global climate stabilization, promoting public understanding, promoting projects related to energy conservation.

**Mr Jim Wilson:** Right. So that's the safeguard.

**Mr Perlin:** Then you cut out (d), which said engaged in any other similar matters.

**Mr Jim Wilson:** I noticed that.

**Mr Perlin:** So that's the safeguard.

**The Chair:** Any further questions? Are we ready for a vote on Mr Hansen's amendment? Shall Mr Hansen's amendment to subsection 15(2) carry? Carried.

Are there further amendments, Mr Hansen?

**Mr Hansen:** Yes, Mr Chair. I move that subsection 15(4) of the bill be struck out.

**The Chair:** Mr Hansen moves that subsection 15(4) of the bill be struck out. Any questions? Are we ready for a vote on Mr Hansen's amendment to 15(4)?

Shall Mr Hansen's amendment to 15(4) carry? Carried.

Thank you. Shall section 15, as amended, carry? Carried.

Are there any amendments to section 16?

**Mr Hansen:** I move that section 16 of the bill be amended by adding the following subsections:

"Open meetings

"(3) Meetings of the board, other than meetings of committees of the board, are open to the public and no person shall be excluded from a meeting except for improper conduct.

"Power to expel etc

"(4) The presiding officer may expel or exclude from a meeting of the board a person who has engaged in improper conduct at the meeting."

**The Chair:** Questions? Are we ready for a vote on Mr Hansen's amendment to 16(3)? Shall Mr Hansen's amendment carry? Carried.

Shall section 16, as amended, carry? Carried.

Are there any amendments to section 17?

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**Mr Hansen:** I move that subsection 17(4) of the bill be struck out and the following substituted:

"Use of income

"(4) Income from the trust fund must be used for charitable purposes as provided in this act."

**The Chair:** Are there any questions? Are we ready for a vote? Shall Mr Hansen's amendment to subsection 17(4) carry? Carried.

Shall section 17, as amended, carry? Carried.

Shall sections 18 and 19 carry?

**Mr Hansen:** No.

**The Chair:** I see in front of me an amendment which is section 19.1, which adds a section. Are there amendments to section 18 or 19? No. Is there any discussion of sections 18 and 19? No.

Shall sections 18 and 19 carry? Agreed.

Are there any additional sections?

**Mr Hansen:** I move that the bill be added by adding the following section after section 19. There was a little bit of confusion there, Mr Chair.

"Not a local board

"19.1(1) The foundation is deemed not to be a local board of the city for the purposes of the Municipal Act or the Municipal Affairs Act.

"Application of RSO 1990, c.M.50

"(2) The Municipal Conflict of Interest Act applies with respect to the foundation as if it were a local board.

"Application of RSO 1990, c.M.56

"(3) The foundation is deemed to have been designated as an institution to which the Municipal Freedom of Information and Protection of Privacy Act applies."

**The Chair:** Are we ready for a vote on section 19.1? Shall section 19.1 carry? Carried.

Are there any amendments to section 20?

**Mr Hansen:** I move that subsection 20(2) of the bill be struck out and the following substituted:

"Same

"(2) With respect to a donation, the foundation shall not exercise its powers in contravention of any intention expressed in the document governing the donation unless directed to do so by the Ontario Court (General Division)."

**The Chair:** Any questions on Mr Hansen's amendment? Are we ready for a vote? Shall Mr Hansen's amendment to subsection 20(2) carry? Carried.

Shall section 20, as amended, carry? Carried.

Are there any amendments to section 21?

**Mr Hansen:** I move that subsection 21(3) of the bill be struck out and the following substituted:

"Disposition of property

"(3) When the foundation is wound up or dissolved and after its debts and liabilities are paid, its remaining property shall be distributed or disposed of,

"(a) to charitable organizations having objects or purposes similar to those of the foundation; or

"(b) to the fund,

"if the Ontario Court (General Division) authorizes the distribution or disposition under the cy pres doctrine.

"Distribution to the fund

"(4) The fund shall use the property it receives under subsection (3) only for the objects or purposes for which the foundation could have used it.

"Administration

"(5) The fund shall keep the property it receives under subsection (3) separate from its other property."

That's the last amendment I have in front of me.

**The Chair:** Are there any questions?

**Mr Sola:** I would like to reveal my ignorance by asking what the "cy pres" doctrine means.

**Mr Melville:** My understanding is that it's a kind of next best thing. If you can't use the money exactly as a maker of a will wants, you apply that doctrine and use the money for the closest thing possible.

**The Chair:** Further questions? Are we ready for a vote on Mr Hansen's amendment? Shall Mr Hansen's amendment to subsection 21(3) carry? Carried.

Shall subsection 20(1), as amended, carry? Carried.

Are there further amendments? No. Are we then ready for a vote on sections 22 and 23?

Shall sections 22 and 23 carry? Carried.



Shall the preamble carry? Carried.  
 Shall the bill carry? Carried.  
 Shall I report the bill to the House? Agreed.

1130

ONTARIO BUILDING OFFICIALS  
 ASSOCIATION ACT, 1992

Consideration of Bill Pr40, An Act respecting the Ontario Building Officials Association.

**The Chair:** We are now proceeding with Bill Pr40, An Act respecting the Ontario Building Officials Association. Mr Martin will be presenting. Mr Martin, would you like to have a seat and introduce your several friends, the applicants.

**Mr Tony Martin (Sault Ste Marie):** I'm extremely happy to be here this morning with this very hardworking group of individuals on behalf of the association and the province. There's been a lot of work done re this piece of business by these folks and others over a period of time. It's good to have arrived at this point. I'd ask, before I make some introductory comments, each of the members to introduce themselves so that they might speak as to their particular role and position in the organization.

**Mr David La Mantia:** My name is David La Mantia. I'm a solicitor in Lindsay, Ontario, and I appear today as counsel for the Ontario Building Officials Association.

**Mr Garry Davis:** My name is Garry Davis. I am the president of the Ontario Building Officials Association.

**Mr Syl Allard:** My name is Syl Allard; I'm a municipal building official from Sault Ste Marie. I am the immediate past president of the association.

**Mr Peter Finn:** My name is Peter Finn. I'm the secretary-treasurer of the Ontario Building Officials Association.

**Mr Martin:** The piece of business before you does not change in any way, Mr Chair and members of the committee, what building officials have done historically in this province, which is try to maintain a level of professional conduct and protection for the public.

In fact, it's very compatible with Bill 112, which has just been passed, An Act to revise the Building Code Act. You may have in your package a letter of support from the Ministry of Housing, through the parliamentary assistant to the minister, Margaret Harrington, supporting this particular bill. We also have here this morning legal counsel from the Ministry of Housing if there's any question as to the compatibility of this bill with anything it's doing.

It's fair to say, though, that there is before you one objection to the bill, brought forward by the Ontario Association of Property Standards Officers Inc. To respond generally to that concern, all of us here at the front table looked at this very seriously in an attempt to see where it might in some way, shape or form get in the way of the very high ideals that the building officials bring to this piece of legislation, which are to be helpful particularly to the general public but also to its own membership, and to not in any way impede the ability of the province to do its best work.

In the act that's under contention, I think the operative word that needs to be focused on—it's section 3—is the word "assist." It doesn't preclude other groups assisting. I think the group and its legal counsel will be able to expand on that

further, given that there might be some questions or some opportunity to do that. I turn it over now to the legal counsel of the group to present the bill.

**Mr La Mantia:** I'd like to begin, Mr Chair, by thanking the committee for seeing us today, and I would propose to first describe what the Ontario Building Officials Association sees as the purposes of this legislation. Those purposes, to summarize, are really twofold.

The first purpose is to identify those with competence in the area of regulating the building code. I'm sure members of the committee are aware that at present, enforcement of the Ontario Building Code is one of three statutory duties imposed upon municipalities in this province. Construction standards are of course set out in the Ontario Building Code. Presently, however, there are no regulations in place to establish the qualifications of those who are charged with implementing and monitoring the Building Code Act to see that both new construction and renovation types of construction are completed according to the code.

This fact, we submit, leaves the general public with little assurance that its health, safety and investment interests are being taken seriously. I should perhaps rephrase that. Right now, there's no particular qualification that building officials can aspire to that would indicate to municipalities that might be hiring a building official that that individual comes to the municipality having completed some set of examinations and courses that would give that individual the expertise to monitor the fairly sophisticated requirements of the building code.

The Ontario Building Officials Association is proposing in this act to establish the designation "certified building code official" or, to use the acronym, CBCO. I should add that it's not proposed that only certified building code officials would be allowed to monitor construction in Ontario, but I think it allows municipalities an opportunity to know that someone they have charged with monitoring the building code in their municipalities has fulfilled the requirements of obtaining that title. They can at least search for somebody who has that qualification.

If you recommend passage of this act and it receives final reading and royal assent, municipalities will have a way in which to ensure that those they retain with that designation have successfully completed the educational requirements and passed the examinations necessary to obtain that designation.

As I said at the beginning of my remarks, we submit two purposes to this legislation. The second purpose is to protect the public. Although at present the Ontario Building Officials Association operates as a corporation without share capital and has set up a series of tests and examinations and courses that would allow its members to obtain the title "certified building code official," there is little recognition of that designation outside its own organization.

Furthermore, the flip side of that is that there's no penalty to dissuade individuals from passing themselves off as certified building officials. In other words, theoretically someone could apply to a municipality for a job as a building official and represent that he had that qualification when in fact he does not.

So the second side of this act or benefit to the public is that if an individual represents himself or herself as having the qualifications of a certified building code official, that is



an offence and he or she could be prosecuted. The point of that, of course, is to dissuade someone from taking that type of action.

Those, I would submit, are the two main purposes. If any of the members of the committee have questions regarding those submissions, I am certainly prepared to deal with them or ask these gentlemen with me to assist me in that regard.

Before that, I'd like to indicate that this legislation is supported by a number of groups that have a particular interest in housing in Ontario and in construction in this province. I'd like to begin with the Ministry of Housing. I was advised that there has been a letter filed with you from Margaret Harrington, MPP for Niagara Falls and parliamentary assistant to the Minister of Housing, indicating the support of the Ministry of Housing for this bill.

In that regard, I'd just like to quote from speaking notes that have been provided to me through Ms Harrington's office. These remarks were made by her to the Ontario Building Officials Association at its 1992 conference on October 7 in Richmond Hill.

**The Chair:** I think those are valuable supportive evidences, but I'm sure Mr Mills could supply the support of the Ministry of Housing or Municipal Affairs.

**Mr La Mantia:** That's fine. I'm content to have Mr Mills indicate the position of the Ministry of Housing.

The second group in support of this legislation is the Ontario New Home Warranty Program. I have before me a letter dated December 1 from J.B.S. Rose, the president-registrar of the Ontario New Home Warranty Program. I'd just like to quote from two or three paragraphs of that letter. I believe this letter may also be filed with the members of the committee. I direct your attention then to the first and second paragraphs on the first page of the letter:

"This letter is being sent to you in order to register the Ontario New Home Warranty Program's support of a proposed bill which is apparently scheduled to be introduced to the House by Tony Martin, MPP for Sault Ste Marie, during the week of December 7th, 1992.

"The Ontario Building Officials Act, 1992, will enable the Ontario Building Officials Association to govern and discipline its members and calls for the adoption of a designated title for building officials in the province of Ontario. This special legislation is seen by the warranty program as being key to the establishment of professional status for those individuals who are charged with the administration of the Ontario Building Code Act within their respective municipalities."

I'd like to direct your attention to the first paragraph on the second page of that letter, which begins:

"The warranty program has been working in partnership with the Ontario Building Officials Association for several years now and has found the association to be very serious and conscientious in its efforts to provide the necessary training programs in order to upgrade the skills of its members and live up to the motto of 'for the public good.' We see the proposal to obtain professional status for its members as an essential move to bring about more uniform administration of the Ontario Building Code."

The other letter of support I'd like to bring to the attention of the committee is a letter from Mr Patrick McNeill, who is

the executive director of the Ontario Professional Planners Institute. That letter's dated December 8, and I'm not sure if it's filed.

**Mr Mills:** We've got that.

**Mr La Mantia:** It is filed? I'd like to put on the record the first paragraph of Mr McNeill's letter, which indicates as follows:

"On behalf of the Ontario Professional Planners Institute, a professional organization representing over 2,000 private and public sector planners across the province, I would like to advise that we have no objection to OBOA's proposed private member's bill (Bill Pr40) seeking the designated title 'certified building code official.' Such proposed legislation will help strengthen the important role of building officials in carrying out your respective duties and responsibilities outlined under several acts."

Now, as Mr Martin alluded to, there is an objection, and that objection's being made by the—

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**The Chair:** If the persons are here, they'll have the opportunity to speak to their objection. You could certainly respond after they have raised it.

**Mr La Mantia:** That's fine, Mr Chair.

**The Chair:** Further, Mr La Mantia.

**Mr La Mantia:** Those are my submissions, unless there are some questions I can help the committee with or I can direct to members of the executive.

**The Chair:** Mr Davis, Mr Allard, Mr Finn, comments in addition to Mr La Mantia's?

**Interjection:** No.

**The Chair:** Thank you. Are there questions from the committee members for the applicants?

**Mr Sola:** If there's an objector, we should hear from the objector and then maybe we can phrase our questions.

**The Chair:** Certainly. I understand there are several objectors present. Because of that, I'm wondering, gentlemen, if it might be possible for you to just move back so those people can come to the committee. We'll have to switch places in front of the mikes. My apologies, gentlemen.

We have, I believe, a number of objectors present. Could you please come forward and introduce yourselves. Are you, first of all, known to each other?

**Mr Brian Allick:** I believe so, sir.

**The Chair:** Yes. Are there other objectors present? I have on my list five gentlemen. Gentlemen, could you introduce yourselves.

**Mr Rick McGee:** I'm Rick McGee. I'm from the Ontario Association of Property Standards Officers, education chairman for the association. I also represent a group of Metropolitan area municipalities called TAPSO, which is Toronto Area Property Standards Officers, with regard to the objection.

**Mr Brian Green:** I'm Brian Green and I'm here representing the Municipal Law Enforcement Officers Association of Ontario.

**Mr Allick:** My name is Brian Allick. I'm president of the Ontario Association of Property Standards Officers.



**Mr Peter Clark:** My name is Peter Clark. I'm a property standards officer and building inspector for the city of Kingston. I'm also secretary of the Association of Property Standards Officers.

**The Chair:** I have a note that Mr Norman Jackson, solicitor from the city of Kingston, also is concerned.

**Mr Clark:** Unfortunately, Mr Jackson couldn't make it this morning.

**The Chair:** Would you be able to convey his views, though, sir? Are they essentially the same as your own?

**Mr Clark:** I think the president could, yes.

**The Chair:** Thank you. Mr Clark first. I'm sorry. Mr McGee first. Excuse me.

**Mr McGee:** I defer to Mr Allick first.

**Mr Allick:** Thank you, Mr Chairman. I must say that we are sorry Mr Jackson is unable to be with us. Far be it from me to try and equal his expertise in presentation etc, but we will do our best.

This morning, I did hand out to the members a position paper, the concerns we have with Bill Pr40, being the proposed legislation respecting the Ontario Building Officials Association. It's somewhat unusual in that clause 3(a) is very specific in its description of its objects in that it references the establishment of regulations which cover all facets of building, construction, renovation and maintenance. It would appear to assume the right to promote uniform interpretation of any act with standards. The following clauses (b), (c), (d) and (e) of Bill Pr40 of the same section make similar assumptions.

The Ontario Association of Property Standards Officers have recently been awarded legislation dealing with a similar, if not exactly the same, subject. The concern of the Ontario Association of Property Standards Officers is that, should Bill Pr40 be passed in its present state, confusion will be caused to municipalities and to the construction industry as to what in fact the awarded designations really mean or what people having the designation have knowledge of.

Section 31 of the Planning Act is legislation which deals with the maintenance and operation of buildings, which is specific to the function of property standards officers whose designation was established by An Act respecting the Ontario Association of Property Standards Officers, passed June 25, 1992.

Bill Pr40 would appear to pattern itself upon An Act respecting the Ontario Association of Property Standards Officers and seems to be a mere extension of that act. It is with this concern in mind that this association raised the issue to the legislative committee in an effort to safeguard the Legislature and both associations from perceived confusion.

We have as an association endeavoured to reach compromise and have offered our services to assist the Ontario Building Officials Association and have in fact met with the executive of the Ontario Building Officials Association as late as December 5 and advised that the removal of the words "maintenance" and "operation" from clause 3(a) would satisfy our concerns. We were of the opinion that agreement had been reached. However, correspondence received December 8 from the Ontario Building Officials Association indicated some reticence to maintain that situation.

We, as an association, do not object and in fact agree with every statement that has been made this morning. We, all members represented here who are raising their concerns, are in fact members of the Ontario Association of Building Officials. I believe the reference was that it would protect the public with tests and examinations and an educational process that they presently operate.

I would advise the committee that the educational process that is being operated by the Ontario Building Officials Association is material which in fact was developed not by themselves but in conjunction with all other voluntary associations in this province, which included the Ontario Association of Property Standards Officers, the Municipal Law Enforcement Officers Association and the Ontario Plumbing Inspectors Association.

In many cases, we are a crossover and an overlap as far as the educators are concerned. There are members who sat in raising the concerns about this bill who actually facilitate those educational programs and, as advised, we are not objecting to the passage of this bill. We welcome the bill. Our concern is the fact that it would seem to cause this confusion and enter into some areas where legislation is already in place.

There was mention also this morning that this will give an added protection to the public. This bill is voluntary, and until such time as the government itself decides to take a position and make it a mandatory certification upon all building inspectors and all property standards officers, if you will, then the protection that's been suggested here cannot be guaranteed.

The letters of support that have been received from the new home warranty program—we do not have any objection to that. We agree with that, and as advised, that is basically our position, Mr Chairman.

**The Chair:** Thank you very much, Mr Allick. As it would seem that there is this one point of disagreement, I'm wondering, gentlemen, if it might be possible for Mr La Mantia to join Mr Allick at the table so that those questions can be debated. Mr La Mantia is the representative of the building association. Would you mind taking that role? Are there questions?

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**Mr La Mantia:** If I might make a comment first in response, I read the letter that was sent by the Ontario Association of Property Standards Officers on September 10, which complained about clauses 3(a), (b), (c), (d), (e) and subsections 10(1) and 11(1) of the act, and I guess I commend my friends for having reduced their objection now to what I understand to be clause 3(a). Their concern at that time seemed to be that the proposed act impinged upon their aims and objectives.

I think it would be helpful to the committee to just look at Bill Pr40 and look at the section that's been complained about, clause 3(a):

"3. The objects of the association are,

"(a) to assist in the establishment of uniform regulations in Ontario relating to the planning, construction, demolition, alteration, renovation, maintenance, operation" etc.

As I understand the objection of the Ontario Association of Property Standards Officers, it's to the words "maintenance" and "operation" in that clause of section 3. I submit to this committee that all 3(a) is suggesting is that the Ontario Building Officials Association might be one of a number of



groups that could bring their particular expertise to regulations dealing with maintenance and operation, among other items.

It doesn't say that the Ontario Building Officials Association is going to be the only body in the province of Ontario that's ever going to be consulted. I would add that the act that Mr Allick refers to that created the Ontario Association of Property Standards Officers, which was Bill Pr22, which received royal assent on June 25, in its objectives makes no mention of the words "maintenance" or "operation," so I'm just confused as to what it is they indicate that is being impinged on here. I'm having trouble understanding their position, quite frankly, and with the greatest of respect.

**The Chair:** Thank you, Mr La Mantia. Mr Sola, you have a question?

**Mr Sola:** I would like to get an opinion from the ministry as to the validity of the objection and what the ministry's stand is on the bill itself.

**Mr Mills:** Mr Sola, I must say that the Ministry of Municipal Affairs, through the deputy minister, is considerably sympathetic in the position put forward here. However, I have to say that this bill seems to be a Housing issue, and perhaps it may be as well to speak to the representative for the ministry here. Mr Jeff Levitt, would you come forward and introduce yourself in the microphone.

**Mr Jeff Levitt:** My name is Jeff Levitt. I'm a solicitor with the Ministry of Housing. As I understand the question, I understand that a letter has been distributed, from the parliamentary assistant to the Minister of Housing, about the views of the ministry in respect of the bill.

I understand that I'm being asked now to provide some technical background about the perceived or potential conflict. I would point out first that under Bill 112, which recently received royal assent although it's not yet in force, does provide for the authority to establish standards for existing buildings in subsection 34(2). Although these are probably a longer-term project, that may at some stage be on the horizon.

The second aspect deals with, I guess, the inevitable aspect of overlap at the fringes of a mandate that it's possible to consider. I'm not sure if it has been mentioned, but building officials are currently responsible, under what's known as part 11 of the building code, the renovation provisions, for at least in some way evaluating the maintenance and operation of certain structural and life safety systems. So in that aspect, the concern with maintenance could be looked at as recognizing a certain function of the municipal building officials' job as well as the recently passed Bill 112.

**The Chair:** Thank you, Mr Levitt. Further questions?

**Mr Sola:** I was more than a little bit perturbed to find out that at present there are no criteria by which officials are appointed for guaranteeing the safety of our buildings. What are the credentials or qualifications? What expertise is required and how is it confirmed for any of these officials? I would think that if there are no criteria, once we discovered that fact, we should actually have a government bill to make something like this mandatory, that we have qualified people carrying out such important functions rather than have a voluntary bill that may or may not guarantee what we are trying to protect, and that's safety.

**Mr La Mantia:** I certainly share the member's concern. I believe, however, that this is an important first step in creating this designation. Once this designation is out there, a municipality which is considering hiring a new building official will at least know that this designation is available and that it could demand that the applicants for that position have those credentials.

I believe it's also available to them to request that their presently employed building officials take the courses and the tests offered by the association to bring them up to the minimum standards, at least, that will be achieved.

**Mr Sola:** But I don't think that answered my question. I'd like to pose a question both to you and to the objectors. In your experience, what are the criteria used today to establish the expertise, the qualifications, the credentials of people appointed to these positions under present circumstances? Do we get qualified people or are they unqualified? That is the question I'm posing. Perhaps you could answer first and then Mr Allick.

**Mr La Mantia:** I would like to apologize for not answering the member's question. I introduce Mr Davis, who is the president of the association. He has more technical background in this area than myself and I'm sure he can answer your question.

**The Chair:** Mr Allick, would you like to respond as well?

**Mr Allick:** Yes, I would.

**The Chair:** Mr Davis first.

**Mr Davis:** As Mr Sola has just said, there is no hard and fast criterion or mandatory designation for anyone to become an inspector or a building official. Most municipalities, or the majority of them, will bring in anyone who has had possibly a construction background, be it that they're tradesmen in one of the many trades related to building, and this is one of the perceived things that we see corrected over time on a voluntary basis with this, in that there will be a recognized program.

This program in place right now for building officials is a one-year add-on at Seneca College which gives an accreditation to anyone taking it, that he has taken the criteria for building code officials. It's recognized now by our association, with two years of experience in municipalities, that they would get credited in our present accreditation. But to answer the question, right now there is nothing. A municipality could have anything from basically a tradesman to a professional engineer.

**The Chair:** Mr Davis, in the bill—my apologies, gentlemen—in clause 7(b), you have "has complied with the academic and experience requirements specified in the bylaws for the issuance of membership."

**Mr Davis:** "Shall grant a membership," yes.

**The Chair:** So that applicant must have achieved a certain—you said the add-on year at Seneca College.

**Mr Davis:** If he has complied, then he would be given the designation of CBCO.

**The Chair:** Thank you. Mr Allick, to that same question?

**Mr Allick:** I concur with Mr Davis's appraisal of the hiring practices. It can be from anywhere. It depends entirely upon the municipality in which this person is employed and the standards that municipality applies and extent to which it



has knowledge of the legislation which deals with buildings. We recognize that, we appreciate that and of course that is why we initially moved forward with Bill Pr22, to sort of get that professionalism and that control into the property standards area, specifically, when we're dealing with legislation which is coming on stream, specifically Bill 121, the Rent Control Act.

We, as an association, are presently working very closely with the members of the Ministry of Housing who are charged with the implementation and are in fact working with them in the education of their rent control officers to the education of maintenance.

1200

**Mr Green:** The confusion is just over the two words, as we mentioned earlier. The Planning Act is quite specific in laying out the mandate for property standards officers on handling property standards violations. The building inspector looks over the building until completion; that is the usual aspect of it. Once the building is completed and the building is of an older version—century-old buildings—property standards officers are usually called upon to inspect for the maintenance and the structural repair. The building officials are called in when permits are taken out, ie, new buildings, renovations, part 11. Building officials are involved when a permit is in process.

As I said, the Planning Act is very specific on older buildings and also from the Planning Act is the zoning bylaw, the use of the buildings, and that is where the municipal law enforcement comes in, enforcing the zoning bylaws. We each have our own designated section and the overlap of the building officials looking after maintenance and use of property is not just a small overlap; it's a drastic overlap. Once the building officials get into maintenance of a building, the conflict is there in the municipalities.

**Mr SOLA:** What is the difference in training between the two organizations?

**Mr Allick:** We would suggest, sir, probably a little facetiously, that the training that's given to a building inspector is an exceedingly good grounding to begin to train somebody to be a property standards officer.

A property standards officer's function varies very drastically from that of a building inspector, and I think this is something that has not yet been recognized. A property standards officer, first of all, is a negotiator. He is a more dealing-with-people person. He is the person who will respond to a tenant who is complaining about the living conditions of his building, of whatever he's renting. He's in a situation where he is negotiating with the tenant. He is dealing with the owners of the property. He is dealing with property management functions. He is dealing with the law that controls their rents.

He's a person to whom the tenants and the owners can go to seek information. He will act as an arbitrator, in many cases, in resolving situations of conflict. These matters are not referenced nor taught by the Ontario Building Officials Association, nor are they part of the function of a building inspector.

But if I may, I would like to respond to the comments made by counsel for the Ontario Building Officials Association, who referenced that there's no reference in Bill Pr22 with regard to "maintenance." I would submit that this is merely the style of writing of the bill and that the reference

he's concerned about is covered, of course, in the bylaws of the Ontario Association of Property Standards Officers.

On the comments that were made by the representative from the Ministry of Housing, while we agree that there are provisions in Bill 112 for the writing of regulations dealing with maintenance, it is an unknown quantity at this time as to what those regulations will be. In Bill 112 we see a move to bringing sections of the fire code into the Ontario Building Code Act. The maintenance references may well be maintenance purely with regards to fire.

I would also advise that part 11 of the Ontario Building Code is purely a section which allows alternative materials to be used to give the same sort of protection to a building in the course of construction and cannot really be related to the maintenance.

**The Chair:** Thank you, Mr Allick. Are there further questions?

**Mr SOLA:** Would your objections be related more to being a turf war between the two organizations or related more to protection of the public?

**Mr Allick:** It's related more to the protection of the public and the recognition of the public as to what the officers are doing. If we deal with the names and the certifications which are designated, we're talking about a certified property standards officer and we're talking about a certified building official. We have the two entirely separate names, and this is where we reference the confusion at the municipal level, to somebody coming into a municipality seeking information.

**Mr SOLA:** Would the public be better off having the confusion and having the two groups recognized or having it the way it is at present, with no criteria required and your group having a designation?

**Mr Allick:** The public would be better served by having the designation of a certified building official, because they know, when they are going to build something, when they want to add on a room or something like this to the property, they go to the building official. However, when they have a problem with an existing building, that their building is below standard, they should have the same right to know who to go to to have that standard brought up to an acceptable level.

**Mr SOLA:** In other words, we'd be better off removing two words from 3(a), and then there wouldn't be any objection.

**Mr Allick:** That's correct.

**The Chair:** Any further questions? Mr La Mantia, do you want to respond?

**Mr La Mantia:** Once again, I wish someone would explain to me how the words "maintenance" and "operation" in 3(a), which relates only to assisting in the establishment of regulations—how do we then get from that paragraph into the building officials suddenly being charged with property standards in a municipality? That's not what this section's about.

This section merely makes it part of the mandate of this association to bring to the table its particular discipline, its particular expertise, in assisting the drafting of regulations relating to maintenance and operation, among other things. It



doesn't say that the building officials are going to subvert the role of the property standards officers.

I fail to understand why the property standards officers want to deny the public the benefit of getting the input of the building officials to proposed regulations. That input isn't binding on anybody; it's merely input. I suspect that if regulations were passed relating to maintenance or operation, there'd be a number of groups requested for input. Why would we deny the public the right to have the input of a professional organization?

I just wish someone would explain to me how those words in that particular paragraph, relating, as it does, not to the function of the building officials but only to the mandate of their association in assisting in drafting the regulations is going to jeopardize the public.

1210

**The Chair:** Thank you, Mr La Mantia. Are there further questions? Are we ready for a vote on Bill Pr40? Agreed.

Shall sections 1 through 10 carry? Carried.

Are there any amendments to section 11?

**Mrs MacKinnon:** I move that section 11 of the bill be amended by inserting after "a" in the sixth line "building inspector or".

**The Chair:** Is there any debate on that amendment? Shall Mrs MacKinnon's amendment carry? Carried.

Shall section 11, as amended, carry? Carried.

Shall sections 12 to 15, inclusive, carry? Carried.

Are there any amendments to the preamble?

**Mrs MacKinnon:** I move that the preamble of the bill be amended by striking out "certain designations and their abbreviations" in the fifth and sixth lines and substituting "the designation 'certified building code official' and the initials 'CBCO.'"

**The Chair:** Any discussion on this amendment? None. Shall the amendment to the preamble carry? Carried.

Shall the preamble, as amended, carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, gentlemen.

#### TOWN OF LINCOLN ACT, 1992

Consideration of Bill Pr58, An Act respecting the Town of Lincoln.

**The Chair:** Mr Hansen will be sponsoring Bill Pr58, An Act respecting the Town of Lincoln. Mr Hansen, could you introduce your colleague, the applicant.

**Mr Hansen:** With me are Mr Robert Heil, the administrator for the town of Lincoln, and Kyle Kruger, the clerk for the corporation of the town of Lincoln.

The town of Lincoln has been working on this bill for well over a year, and I'd like to read into the record a little bit of history.

Pr58 is a bill empowering the town of Lincoln to pass bylaws regulating and prohibiting the dumping of fill within the town. In the past, the town has experienced a number of problems with persons dumping fill. Many complaints have been brought to the attention of the town council. In one instance, fill was being hauled from a large construction site in a neighbouring municipality to a ravine area in the town of

Lincoln. Understandably, neighbours were up in arms, worried about the destruction of the local road system and that the ravine was becoming an eyesore.

Others expressed concern when property owners attempted to extend their yards into abutting ravines by dumping loads of fill, thus filling in important wetland areas. In other situations, the dumping of fill has interfered with existing drainage patterns. Many municipalities, including Lincoln, currently have no authority to pass bylaws relating to this type of activity.

To sum up, the town of Lincoln's concerns with the dumping of fill are:

(1) The environment. The ravines and wetlands are suffering damage.

(2) The drainage. The placing of fill to change the grade and level of properties for agricultural or other reasons may interfere with pre-existing drainage patterns.

(3) Aesthetics. Large piles of fill, including concrete blocks, make vacant lands unsightly.

(4) Contamination. Since fill dumped on private land is not regulated, such fill may include chemical waste.

For these reasons, the council of the town of Lincoln deems it necessary to make application to the Legislative Assembly of Ontario for the passage of a private bill which will allow the council to pass bylaws regulating dumping and filling activities. We must note that the legislation is not a prohibition of dumping but a regulation.

If approved, this legislation would allow the town, through proper licence and control, to proffer much-needed, properly regulated dumping sites for clean fill. The powers contained in Bill Pr58 will enable the town to ensure the aesthetic beauty of the rural community of the town of Lincoln and the health and welfare of its inhabitants. Therefore, I'm asking this committee for its support of this bill.

I'd like to also cite Linda Gray on November 27, 1991, when she stated that a number of municipalities are looking for a bill of this nature. I guess the ministry is taking a look at enacting a bill for the whole province of Ontario, but as you know, the town of Lincoln is a very progressive town and it's taking one step ahead until the ministry gets a chance to get in the bill.

**Mr Derek Fletcher (Guelph):** Members' statements are at 1:30, Mr Chair.

**Mr Hansen:** I would like to hand it over to Mr Heil. He has a few comments to make.

**The Chair:** Mr Heil, I should mention that Mr Hansen has long prepared this legislation and has briefed us on its importance to his town and amply represented Lincoln.

**Mr Robert Heil:** Thank you, Mr Chair. Let me first begin by saying that his worship Mayor Konkle extends his regrets for not being able to be here today. In short, and not to keep you any longer past the lunch-hour, we do not have a great deal to add to the legislation.

Our understanding is that the ministry has proposed a couple of amendments. We have presented those to our council at last night's meeting, and there are no objections to the proposed amendments of the ministry. Those are my comments.

**The Chair:** Are there objectors present? I note that there are two people, Mr Gulinski and Mr Griffiths. Perhaps you could join us at the table. Gentlemen, could you move



slightly to the side so that Mr Gulinski and Mr Griffiths could join us at the front.

**Mr William Griffiths:** My name is William Griffiths. I live in the town of Lincoln. I have serious doubts about this bylaw in terms of the very high cost to the public. They have not addressed any of the costs. All they say is, "We don't want it." They have not made provision in any way, shape or form to accept fill from onsite programs that are ongoing in the town.

The bylaw—I do not have a copy of it, unfortunately—has, to the best of my knowledge, no provisions for the naming of the type of material. They have just said they don't want fill, but what describes "fill"? We've got a plant right there in the town that reuses asphalt. It is a huge pile at the present time; it hasn't been used for some little time. But that's fill. It is material piled up, and it's quite a pile. There are other places that strip land.

According to the way I read the bylaw, if a man had a load of fill dumped on his front lawn to fill a swimming pool or a very bad depression in his backyard and the inspector came along, he could be fined an enormous amount of money, which I feel is ridiculous.

1220

They don't specify how much or how little constitutes "fill." They have no definition of "fill." "Fill" could be sand or gravel, depending on where it is, and there's no definition, no specific type of material or amount. I think this is highly disgraceful on both the people who wrote the bylaw and the people who are applying for it.

There are other departments of the government that have control over almost all of the material that they talk about that is not suitable for dumping in the environment. The Ministry of the Environment is very quick to come down and condemn it and stop it, and it has the authority to make people remove unqualified fill. The Ministry of Natural Resources has the power to make sure that if fill is dumped into an inappropriate area of wetland, it is removed. I have seen this actually done.

So I see no reason for this town to get this bylaw passed. I think it's a disgrace; I think the wording of it is terrible. It is only that they are looking for another excuse to hinder business. At the present time, all sewer cuts and road cuts of all types, all the material has to be disposed of, which means in the case of the town of Lincoln, if they do not provide a place for it, they would have to take it up to 25 miles' distance from the town hall to the city of St Catharines or the city of Hamilton to dispose of somewhat small amounts of fill that they may get from a sewer cut or a road repair or a driveway that is being paved for a private individual. I think this bylaw should be struck down.

**The Chair:** Thank you, Mr Griffiths. Mr Gulinski, do you want to add any comments?

**Mr Roger Gulinski:** Yes. Mr Griffiths covered some of the comments I had. There are a lot of farmers in our community. Some own farms in different spots, not just one farm. In their standard doing of business they will move material from one farm to another on a regular basis.

I'm right against them not really defining "fill," because a load of topsoil could be called fill. The reason I'm saying that is, there are laws in place now to stop most stripping of

topsoil, so most topsoil is manufactured. They actually take fill, add manure and something black and whatever and manufacture this. This could be dumped in your yard and the fellow can come along and say that you owe a \$10,000 or \$25,000 fine, as provided by this bill. That seems to me excessive.

It gives extraordinary powers to town officials for whatever reason to stop you from doing whatever you want. You've already got the Ministry of the Environment, the conservation authority and Natural Resources to take care of all this. I don't see why they want this regulation.

The other point is, the town officials really have no expertise or special training to recognize good or bad fill or how or why it should be placed, so right away we're going to see that they're going to hire a consulting firm or an engineer or something for a fellow who wants to dump a load of fill. That doesn't seem reasonable.

They have a 45-day permit wait. If a fellow wants to get his driveway dug out and paved or something like that and for whatever reason it didn't get done, that seems a bit ridiculous to wait for. And if the 45 days isn't complied with, then it becomes 180 days if it has to go to the OMB.

So it just seems to me that if anyone dug up anything and conveyed it to another part of his property, he'd have to get a permit for it. It doesn't seem reasonable to me. Thank you, gentlemen.

**The Chair:** Thank you, Mr Gulinski. Questions? Mr Sola.

**Mr Sola:** I'd like to ask somebody to comment on this last statement, "If anyone dug up anything and conveyed it to another part of his property, he'd have to get a permit for it." Is that correct?

**Mr Heil:** Mr Chairman, the process has not been established yet. Municipalities are required to, in all cases, act in a very reasonable fashion. The council of the municipality of the town of Lincoln in all cases endeavours to try to put the information to the public. The purpose of the legislation isn't to stop or regulate or prohibit that type of use of soil on one's property, but more so to try to provide an area by regulation to dump material from our own construction as well as construction of private individuals within the municipality, and as well prevent some of the problems that we have been having with soils and rock and sidewalk being dumped over banks that are unstable.

The purpose of the legislation is not in any way, and has not and is not in all of the reports in the background, been intended to prohibit or regulate a farmer or a property owner from taking topsoil or filling in a small area. It's more for control of some of the areas where we have had some major difficulties and problems.

**Mr Sola:** Has there been any tension between the farmers and the officials of the town? We've got two representatives here who are opposing this bill and there must some reason for the opposition; there must be substance to their arguments. So, if you could clarify that.

**Mr Heil:** We have not had any complaints from specifically farmers in the area. We know that we have had some farmers who have been concerned about some alterations in some of the natural water course and would like the municipality to deal with it because of some fill, and basically the municipality's hands have been tied in that instance; it



doesn't have the authority. Where the Ministry of Natural Resources and the conservation authority can control through the floodplain and floodline regulations, we encourage them in all cases, but there is a major portion of the town of Lincoln that is currently not covered or regulated by those ministries and authority.

The actual contaminated soil is governed by the Environmental Protection Act. We would hope that we would never have to try to regulate that and we would like to bring the Ministry of the Environment on side. Currently, as I understand, they are proposing some legislation to deal with possible contaminants in soil that comes out from ditching projects alongside of roads, and we will be looking at that kind of regulation in dealing with the issue even before probably the Ministry of the Environment passes it, to try to control that.

**Mr Sola:** Thank you. I'd like to pose this next question to Mr Griffiths. In your letter you state that this complaint is made on behalf of the residents of the town of Lincoln. I'd like to ask you how many residents you are representing and whether you are authorized to represent anybody. I mean, is it an organization that—

**Mr Griffiths:** They did ask that I write the letter, but I'm not by legal standards authorized to represent any of them.

**Mr Sola:** You said "they." Is it—

**Mr Griffiths:** There were several of them who asked me about it and asked me would I appear for them, but I can't say that it's official as such. I'm sorry.

**Mr Sola:** The other statement you make is that the advertisement was misleading. Now, in what way, and could you elaborate on that?

1230

**Mr Griffiths:** The town has consistently used regulations that it has to mislead the public on what it does. The advertisement for this was one single advertisement. Unless you went to council every night that there was a council meeting—it was very quickly passed over, with little or no discussion. I didn't go to the council meetings so I'm not at liberty to say what was said at the council meetings. If they want to put this bill in then they should specify what is fill, what isn't fill and how much is considered fill, because a swimming pool takes approximately four tandem loads of fill, if that's what your choice is, and there is a great number of people who do fill in swimming pools—not everybody, but then there's a swimming pool that the people are putting in and the dirt has to be disposed of.

Under these regulations it's not specified as to where they can do it. They say they're going to put these regulations in. I wouldn't trust the town of Lincoln to put the regulation in that they said unless it's written down in the order. Then you can trust them. Otherwise, there's nothing to say that if this bylaw is passed the town of Lincoln can say that 10 yards of dirt constitutes fill. There are some farmers over there who have some waste product that they use for fertilizer, and up until I talked to the farmer personally, when I drove down the road, it looked like he'd dumped about four loads of dirty old gravel in there; I wondered what it was going to be used for. Actually, it's fertilizer that will be used on the land when it comes up. Now, this could be called fill. It's been there for probably four, five or six months now.

**Mr Sola:** I'd like to ask somebody from the town, what is the definition of fill that you are using and if you have one, why is it not contained in the bill?

**Mr Heil:** What we have done is just, at this point we're simply seeking the legislation to give us the authority. What we would in all probability do is go to these municipalities in Ontario that have passed similar bylaws that have also sought and obtained private legislation and probably follow very closely what they have done. It is not our intention to limit or prohibit farming operations, quite the contrary, but to support—we know we have had requests from farmers to help fill in some of their ponds; we would like to do that. We know that there is excess fill in the town. We have to provide a place and our intention would be to licence several locations to specifically provide an outlet or a location to dump fill, even for our own projects. Currently we haul everything that we have to our landfill site and we provide that site for fill for all of our construction projects, and it can get costly because it is quite a way sometimes to haul material. So our regulation is hopefully to actually open it up a little bit more.

**The Chair:** Mr Sola, any further questions? Mr Perruzza.

**Mr Anthony Perruzza (Downsview):** It's not so much a question. I look at this and what's before us and I can't help but commend the member for Lincoln for being, as usual, ahead of his time and encouraging us to proceed on something that probably should be province-wide and have provincial implications, and I think he's moving us in that direction and he's shaking us on this, and I commend him for that. He's a leader. He's not following on this issue, and I congratulate him for that.

**Mr Fletcher:** To Mr Griffiths, your company is Acme Trailer Equipment. Is that right in the town of Lincoln?

**Mr Griffiths:** The answering service is and I do collect the mail there. Other than that, no.

**Mr Fletcher:** Where is your—

**Mr Griffiths:** It's in Hamilton.

**Mr Fletcher:** I see.

**Mr Griffiths:** Presently we're not in operation. The free trade act destroyed the business, so right at the minute we're sitting on it, waiting to see what happens.

**Mr Fletcher:** The other thing you were saying was about the swimming pools. Do you do a lot of swimming pool things, or is that just people you know?

**Mr Griffiths:** People I know, but I have done some filling in on a temporary basis, for something to do. I would take in and fill a pool. I'd rent the equipment and would fill in a pool for various people or dig one out, whichever.

**The Chair:** Further questions? Mr Parliamentary Assistant, do you have any comments?

**Mr Mills:** Before we go to the amendments, I'd just like to say a couple of things. First of all, the ministry supports this bill. There were one or two concerns which have been addressed by the amendments. Having seen those amendments, we concur now with the bill.

I'd just like to make an observation about defining "fill." The problem with defining "fill" is that once it's written in, then you've got a problem changing it. That's really why it's

not in this bill. It's not in any sense seen as a way around something.

I'd just like to refer to clause 1(1)(b), which requires that a permit be obtained. I think the ministry feels one has to have some certain trust in municipal government so that when you apply for that permit, it would be spelled out at that time. If it agreed with the intent of this bill, then I don't see any problem with that.

There was a question raised or some suggestion put forward that in order to get that permit, there was a 45-day delay in getting that. That's not true. If the permit is refused, there's a 45-day delay in the appeal process. I just wanted to make that correction on the record.

**The Chair:** Are we ready for a vote on Bill Pr58? Agreed. Are there any amendments to section 1?

**Mrs MacKinnon:** Yes, clause 1(1)(e).

I move that clause 1(1)(e) of the bill be amended by striking out "and deeming the costs incurred in performing such work to be municipal taxes levied upon the land" in the sixth, seventh, eighth and ninth lines.

**The Chair:** Any questions on the amendment? Are we ready for a vote on Mrs MacKinnon's amendment?

Shall Mrs MacKinnon's amendment carry? Carried.

Are there further amendments to section 1?

**Mrs MacKinnon:** I have an amendment on subsection 1(5).

I move that subsection 1(5) of the bill be struck out and the following substituted:

"Creation of lien

"(5) Costs incurred by the corporation under a bylaw passed under clause 1(1)(e) are, upon registration by the corporation in the proper land registry office of a notice claiming the first lien and charge conferred by this subsection, a first lien and charge upon the land.

"Status of lien

"(6) The first lien and charge conferred by subsection (5) is in respect of all costs that are payable at the time of registration

of the notice, and the first lien and charge has priority over all encumbrances and claims registered or attached to the land after the notice is registered."

**The Chair:** Any discussion of the subsection 1(5) amendment? Are we ready for a vote?

Shall Mrs MacKinnon's amendment to subsection 1(5) carry? Carried.

Shall section 1, as amended, carry? Carried.

Shall sections 2 and 3 carry? Carried.

Are there any amendments to section 4?

**Mrs MacKinnon:** I move that section 4 of the bill be struck out and the following substituted:

"No liability

"4(1) No action or other proceeding for damages may be instituted against the corporation or its officers, employees, agents or assigns for any act done in good faith under a bylaw passed under clause 1(1)(e).

"Exception

"(2) Subsection (1) does not relieve the person of liability in respect of a tort."

**The Chair:** Any discussion of the amendment to section 4? Are we ready for a vote on the amendment?

Shall Mrs MacKinnon's amendment to section 4 carry? Carried.

Shall section 4, as amended, carry? Carried.

Shall sections 5 and 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, Mr Gulinski and Mr Griffiths. I particularly want to commend you for making the effort to come and present your issues. Thank you, Mr Heil, Mr Kruger and Mr Hansen.

**Mr Perruzza:** Can I move adjournment, Mr Chairman?

**The Chair:** We are adjourned.

The committee adjourned at 1241.



## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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**\*Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)

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**\*Ruprecht, Tony (Parkdale L)**

**\*Sola, John (Mississauga East/-Est L)**

Sutherland, Kimble (Oxford ND)

**\*Wilson, Jim (Simcoe West/-Ouest PC)**

**\*In attendance / présents**

### **Substitutions present / Membres remplaçants présents:**

Fletcher, Derek (Guelph ND) for Mr Dadamo

Marchese, Rosario (Fort York ND) for Mr Farnan

Perruzza, Anthony (Downsview ND) for Mr Sutherland

### **Also taking part / Autres participants et participantes:**

Gray, Linda, coordinator, private legislation, Ministry of Municipal Affairs

Dougherty, Richard, solicitor, Ministry of Municipal Affairs

Levitt, Jeffrey, senior solicitor, buildings programs legal section, Ministry of Housing

Melville, Tom, solicitor, Ministry of Municipal Affairs

Mills, Gordon, parliamentary assistant to the Minister of Municipal Affairs

Schumann, Helmuth, senior policy adviser, natural gas distribution, Ministry of Energy

**Clerk /Greffière:** Freedman, Lisa

### **Staff / Personnel:**

Hopkins, Laura, legislative counsel

Klein, Susan, legislative counsel

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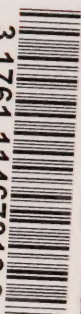
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